DOCUMENT RESUME

ED 157 159 EA 010 704

TITLE	Education Amendments of 1978. Report No. 95-856 (to accompany S. 1753). 95th Congress, 2d Session. Calendar No. 787.
INSTITUTION	Congress of the U.S., Washington, D.C. Senate Committee on Human Resources.
PUB DATE	78
NOTE	501p.; For a related document, see EA 010 705; Not available in paper copy due to small print size of original document
EDRS PRICE	MF-$1.00 Plus Postage. HC Not Available from EDRS.
DESCRIPTORS	*Educational Legislation; Elementary Secondary Education; Federal Aid; *Federal Legislation
IDENTIFIERS	Education Amendments 1978

ABSTRACT

This is the report of the Senate Committee on Human Resources on Senate Bill 1753 to extend the Elementary and Secondary Education Act of 1965. (IRT)

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ED157159

Calendar No. 787

95TH CONGRESS
2d Session

SENATE

REPORT
No. 95-856

EDUCATION AMENDMENTS OF 1978

MAY 15 (legislative day, APRIL 24), 1978.—Ordered to be printed

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Mr. PELL, from the Committee on Human Resources, submitted the following

REPORT

[To accompany S. 1753]

The Committee on Human Resources, to which was referred the bill (S. 1753) to extend the Elementary and Secondary Education Act of 1965, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill as amended do pass.

BACKGROUND OF THE COMMITTEE AMENDMENT

S. 1753 was introduced on June 24, 1977. It proposed a straight 5-year extension of existing programs for elementary and secondary education which are administered within the Education Division of the Department of Health, Education, and Welfare, and served as the basis for 6 days of hearings by the Subcommittee on Education, Arts, and Humanities between October 4 and November 4, 1977. In addition, the subcommittee held 3 days of hearings on the general issue of the quality of existing elementary and secondary education and the related issue of competency-based testing and basic skills. Finally, the subcommittee, on March 8, 1978, heard testimony from the Secretary of Health, Education, and Welfare concerning the administration's proposals for amendment and extension of elementary and secondary education programs.

The committee amendment is based on the testimony received in these hearings, plus the extensive written testimony received from witnesses who were not able to be heard during the subcommittee hearings. All of the testimony is printed in volumes on the subcommittee's deliberations.

EA 010 704

Subcommittee consideration of S. 1753 took place on April 11 and 21, 1978. The Full Committee on Human Resources met in executive session on S. 1753 on May 5, 1978. On May 9, 1978, the bill was unanimously ordered reported to the Senate.

Brief Summary of the Committee Bill

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

The provisions of the Elementary and Secondary Education Act are, in general, extended through fiscal year 1983 by the committee bill, basically at existing authorization levels.

Title I of the act (Financial Assistance to Meet Special Educational Needs of Children) is rewritten to simplify and codify its provisions. A new section, relating to Federal funds to match State compensatory education programs at the rate of 1 Federal dollar to 2 State dollars, proposed by the Administration, is included. In addition, a new program of grants for counties with high concentrations of children from low-income families is added, with an authorization of $400 million. Additional provisions are added to improve the monitoring and enforcement of programs under the title.

Title II of the Act (School Library Resources, Textbooks, and Other Instructional Materials) is repealed, since its provisions were incorporated into title IV of the Act in 1974. In its place, the Committee bill authorizes a new title, providing assistance to States and local educational agencies (Basic Skills and Educational Proficiency) for programs to assist in the improvement of the basic skills of reading, mathematics, and communication, both oral and written, and for improved educational proficiency standards, at the request of the State or local school system.

Title III of the act (Supplementary Educational Centers and Services: Guidance, Counseling, and Testing) is also repealed, as its purposes were consolidated in 1974. In its place, the committee bill adds a new title (Special Projects) which authorizes categorical assistance to State and local educational agencies for metric education, arts in education, consumer education, youth employment, environmental education, law-related education, correction education, health education, population education. In addition to the separate authorizations for these programs contained in the committee bill, the Commissioner is authorized to use up to 10 percent of the funds appropriated (not to exceed 10 percent of the funds for any individual program) for experimentation with new educational administrative methods, techniques, and practices, and for emphasis on national priority areas. In addition, there is a general authorization of additional appropriations to the Commissioner for such purposes.

Title IV (Educational Improvement, Resources, and Support) continues the programs consolidated into this title in 1974, with certain modifications based upon testimony concerning the problems States and localities have faced in implementing that consolidation. A new part D (Guidance, Counseling, and Testing) is created, separating those activities from the instructional materials and school library

Section 113 of the committee bill authorizes a study of alternatives for demonstrating comparability of services under title I of the Elementary and Secondary Education Act of 1965. This study is in response to the testimony of a number of witnesses from various States that the existing test established by law and interpreted by Office of Education regulations is too rigid, and does not reflect State school finance programs which attempt to take into account the differing costs of education for different populations and subject or grade levels. It should provide guidance for the Committee in its reconsideration of comparability requirements when title I is next under review.

TITLE II—IMPACT AID AMENDMENTS

The committee bill extends the provisions of public law 874 (relating to assistance for local educational agencies in areas affected by Federal policy) through fiscal year 1983. It retains the provisions of existing law concerning the treatment of children whose parents work in one State and live in another, and the treatment of those whose parents work in one county and live in another, except that it makes provision for the latter in the case that a school district is located in more than one county. The committee bill increases the payments under the impact aid program for handicapped children of military personnel and Indians. In addition, it repeals the absorption provision contained in existing law. The committee bill provides that children residing in federally assisted public housing are eligible for assistance on the same basis as other federally connected children, and adds to local entitlements property owned by foreign governments and international organizations and that owned by the U.S. Postal Service.

The committee bill also extends the provisions of public law 815 (relating to construction of school facilities in areas substantially affected by Federal activity) through fiscal year 1983, with amendments to reduce the paperwork necessary to participate in the program.

TITLE III—EXTENSION OF RELATED EDUCATION PROGRAMS

Part A of title III of the Committee bill extends existing law relating to adult education through fiscal year 1983 and adds a new program of adult education for immigrants. In addition, existing law is amended to provide increased flexibility in directing the program to those adults most in need of its services.

Part B of title III extends existing authorizations of elementary and secondary education programs for Indians through fiscal year 1983, without change.

Part C of title III increases the authorization for the teacher center program authorized by title V of the Higher Education Act and provides for a minimum amount per State when appropriations exceed $50 million.

TITLE IV—GENERAL EDUCATION PROVISIONS

Title IV of the Committee bill contains a provision vesting authority in the Education Division for the coordination of paperwork re-

resources which continue to be authorized under part B. In addition, a new part E is added (Education of Gifted and Talented Children), which builds upon the existing demonstration authority for programs for the gifted and talented and authorizes a State-level program as well as discretionary grants from the Commissioner. No less than 5 percent of the funds appropriated for title IV [illegible] be used for this new part.

Title V (State Leadership) replaces the exis[illegible] V (Grants to Strengthen State Departments of Education) w[illegible] was consolidated into title IV in 1974. The new title provides State educational agencies with flexibility in administering titles I and IV of the Elementary and Secondary Education Act by consolidating the allowances available for that purpose, eliminating the requirements of current law for separate accounting and paperwork for the programs. In addition, the committee bill includes a new part designed to strengthen State educational agency management. The existing law concerning the Councils on Quality in Education is extended.

Title VI, which is now vacant because legislation dealing with the education of the handicapped has been moved out of the Elementary and Secondary Education Act, is amended in the committee bill by moving the Emergency School Aid Act into the title. In general, the committee bill adopted suggestions made by the Administration to add flexibility to the implementation of this program.

Title VII extends the bilingual education program and makes technical amendments to the program reflecting the testimony on its current administration which witnesses presented to the subcommittee.

Title VIII makes technical amendments and repeals programs which have been included in other portions of the committee bill.

Title IX extends the Ethnic Heritage Studies Act through fiscal year 1982, and simultaneously assures the continuation of the National Advisory Council on Ethnic Heritage Studies through that fiscal year.

Title X (Community Schools) authorizes a new program of assistance to community school programs, based upon the experience of the demonstration program which has been conducted by the Commissioner of Education since the enactment of the Special Projects Act in 1974. This new program would allow recipients of community school assistance to use those funds to match funds received under other community-based Federal programs, thereby making the school an increasingly important member of the general community.

Title XI (Women's Educational Equity) also expands upon a program which was initially authorized as a demonstration program in 1974, building upon that program's success and, in addition, directing its focus, once sufficient appropriations levels have been reached, upon assisting State and local educational agencies and institutions in meeting the requirements of title IX of the Education Amendments of 1972, relating to discrimination on the basis of sex.

Title XII of the committee bill adds a new title to the Elementary and Secondary Education Act authorizing certain forms of categorical assistance, such as books and instructional materials, guidance and counseling services, portable instructional equipment, health and diagnostic services, and transportation assistance to children in nonpublic schools, with an annual authorization of $500 million.

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quests of educational agencies and institutions which is intended to eliminate unnecessary requests for information or data and to provide a process for reduction of such requests which may be duplicative, unduly burdensome, or excessively costly. In addition, the committee bill extends the authorization for the National Center for Education Statistics. It provides for the conduct by the National Institute of Education of a National Assesment for Educational Progress, with a broadly representative Policy Advisory Board.

PROVISIONS OF THE COMMITTEE BILL

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT

Special educational programs and projects for educationally deprived children

Title I of the Elementary and Secondary Education Act is the primary program of Federal assistance to our Nation's elementary and secondary schols. Originally enacted in 1965, it recognizes that children from low-income families are more likely to be deprived of appropriate educational experiences because of the inability of local educational agencies to bear the heavy costs required to meet their special educational needs. Therefore, funds are made available from the Federal Government to counties and school districts based on their enrollments of children from low-income families, as determined by the census and by current recipients of aid to families with dependent children.

Programs supported with these funds are supplementary to, not replacements for, State and local efforts. They are intended to help schools improve their educational programs to meet the special needs of deprived children. Ninety percent of the school districts in the country participate in title I programs, and approximately 5.9 million children receive title I services.

During fiscal year 1976, the most recent year for which data are available, title I constituted approximately 34 percent of the financial assistance to elementary and secondary education administered through the Office of Education. In addition to basic grants to local educational agencies, State-managed title I programs provide services to migrant, handicapped, and institutionalized neglected or delinquent children. In fiscal year 1976, appropriations for grants to more than 14,000 school districts amounted to $1,641,807,000.

Local school districts' grants were computed on a county basis by multiplying the number of eligible children by 40 percent of the State average per-pupil expenditure, or not less than 80 percent nor more than 120 percent of the national per-pupil expenditure. Local schools focused their attention on refining basic skills in reading, mathematics, and communication, both oral and written. Approximately 74 percent of the funds were used for instructional services—83 percent of these for remedial reading, mathematics, and language arts instruction, and 17 percent for other instructional services. In addition to employing teachers, instructional specialists, and teacher aides, funds were also used for special summer programs and inservice training for title I staff.

Typical title I programs have the following important components:

The projects provide services and resources which are in addition to those made available by the schools as part of their regular programs. They are directed only to those children identified as educationally disadvantaged and most in need of special help. Participants spend an average of 20 to 25 percent of their school day in compensatory education instruction. The average class size for compensatory instruction is significantly smaller than regular classes.

Parents are involved in the planning, implementation, and evaluation of the projects. Such involvement helps bridge the gap between home and school. Seeking parent opinion and advice causes programs to become responsive, and changes are more readily made and better understood.

Nonpublic school children benefit from title I programs under various arrangements. Some local educational agencies have developed compensatory education services which are provided to the children at or near the schools they attend. Other school districts have provided services through a procedure of dual enrollment, in which a child retains membership in a nonpublic school but attends a public school part time for compensatory services. In one State where certain local districts have not been able to provide title I services on an equitable basis to children enrolled in nonpublic schools, the statutory provisions for a bypass were invoked and steps were initiated for the provision of services through an alternate means. The committee bill takes a number of steps to assure that nonpublic school children receive the services to which they are entitled, through new language designed to expedite the administrative procedures which must be undertaken before the bypass provision can be invoked.

Title I services are also available to migrant children of migratory agricultural workers and migratory fishermen. After a thorough assessment of the needs of its migratory children, each State submits each year to the Office of Education a comprehensive plan and cost estimate for its Statewide migrant education program. Funding is on an allotment basis, computed through a formula utilizing statistics made available by the Migrant Student Record Transfer System. In fiscal year 1976, 14,193 schools received title I migrant funds totaling $97,090,478. Forty-six States and Puerto Rico participated in the program, with 515,900 children receiving benefits from the services provided.

Title I grants are also made directly to State agencies responsible, under State law, for providing free public education for children who reside in institutions for neglected or delinquent children, as well as for children in correctional institutions. Projects supported under this special program typically emphasize remedial courses, individualized instruction, and inservice teacher training. Efforts are made to integrate these institutionalized children into the mainstream of school and community life, and the committee adopted an amendment suggested by the administration designed to assist in such transition. In fiscal year 1976, there were approximately 50,000 children living in 592 State-administered or supported institutions who benefited from an allotment of $27,459,444 for services under title I.

Finally, title I programs are available to meet the special educational needs of children in State-operated and State-supported schools and other institutions for handicapped children. Institutions qualifying for allocations range from those which provide full-year residential programs to those which provide special itinerant services on a part-day basis for handicapped children enrolled in a regular day school or confined to their homes because of severe handicapping conditions. In fiscal year 1976, approximately $95,869,000 was alloted to the 50 States, the District of Columbia, Puerto Rico, and Guam for education of the handicapped under title I. Funds were administered by 136 State agencies, which supervised projects at approximately 3,700 institutions and 2,500 local educational agencies.

The National Institute of Education Study.—Title I was initially enacted in 1965; since that time, there has been extensive debate concerning whether the compensatory education funds spent for its purposes by the Federal Government actually led to improvement in the achievement of children from low-income families. In the Education Amendments of 1974, Public Law 93–380, the Congress directed the National Institute of Education to conduct a comprehensive three-year study of title I, authorizing the expenditure of $5 million of title I approriations for each of the 3 years to support the activity. Six final reports were transmitted to the Congress by September 30, 1977. They formed the basis of much of the hearings on title I, and were extremely instrumental in assisting the committee as it considered extension and amendment of title I. The committee wishes to commend the National Institute of Education for the uniformly high quality of its study, as well as its timeliness, as it proved invaluable to the committee in the formulation of the Education Amendments of 1978.

When Dr. Paul Hill, director of the Institute's Compensatory Education Study, appeared before the Subcommittee on Education, Arts, and Humanities, he outlined some very encouraging research results. The first major conclusion of the study is that title I is successful in directing substantial Federal aid to those areas which have the highest proportions of children from low-income families. Although title I funds constitute less than 5 percent of all national expenditures for elementary and secondary education, title I often accounts for one-sixth of the funding in the very poorest school districts. In addition, the Institute found that title I has greater redistributive effect than other State and Federal aid-to-education programs. Title I allocated more than 5½ times as much aid per pupil to the districts with the highest poverty rates as to the lowest. Title I also provides slightly more money to districts with small local tax bases than to districts which are able to provide high levels of local spending.

At the school building level, data from evaluations funded by the Office of Education indicate that schools which receive title I funds tend to have high concentrations of students from poverty backgrounds and high concentrations of poor readers.

Title I programs are generally operated at the elementary school level, where 20 percent of all elementary school children receive compensatory education services. Three quarters of the funds received are used to provide basic instructional services. Administrative expenses are not high, averaging about seven percent; in addition, the proportion for auxiliary services has declined since the early days of the program to about 5 percent.

According to the National Institute of Education, these services do make a distinct contribution to the learning experiences of students. Detailed case studies of 12 districts revealed that "title I students in every district received extra services—either more time in instruction, smaller group size, or more time with highly qualified teachers."

Perhaps the most encouraging accomplishment of title I found by the Institute is its effect on student achievement. The study indicates that compensatory services can be extremely effective in enhancing the achievement of participating students. First graders in the Institute's sample made average gains of 12 months in reading and 11 months in mathematics in the 7-month period between fall and spring testing. Third graders gained 8 months in reading and 12 months in mathematics. These gains exceed those reported in even the most encouraging evaluation of previous years, and are especially significant when one considers that without title I, disadvantaged students usually attain only 7 months for each school year of instruction.

As part of the study by the National Institute of Education, a contract was entered into with the Legal Standards Project of the Lawyers' Committee for Civil Rights under Law to conduct a 2-year study of the basis for and the clarity and restrictiveness of the legal framework of title I. This study produced several reports, including extensive analysis of (1) the program requirements with which local educational agencies must comply to receive funds under title I; (2) the legal requirements pertaining to the administration of title I by the States; and (3) the relationship between selected State compensatory education programs and the requirements of title I.

In November, 1977, the Institute asked the Project to draft legislation which would recognize title I to achieve greater clarity, consistency, and coherence, without making substantive changes in the existing law. This draft served as the basis of the Committee's consideration of title I.

The Committee amendments to title I.—Part A of the Committee bill relates to programs operated by local educational agencies. The Northern Mariana Islands are included as eligible for funding in the amounts reserved for the outlying areas. In addition, the Committee adopted a proposal made by the Administration to increase the amount of title I funds available for the Commonwealth of Puerto Rico. Present law provides that Puerto Rico's allotment is derived by using the Commonwealth's average per pupil expenditure multiplied by the other formula factors. However, Puerto Rico is excluded from the floor of 80 percent of the national per pupil expenditure which applies to the 50 States, even though its average per pupil expenditure is only 40 percent of the national average.

The committee bill would increase Puerto Rico's allocation by permitting the Commissioner to determine the percentage which Puerto Rico's average per pupil expenditure is of the lowest average per pupil expenditure in any of the 50 States. This percentage is then multiplied by 32 percent of the average per pupil expenditure in the United States, and then that product is multiplied by the eligible children counted under the formula. Since this formula change will result in substantially increased amounts of title I funds being channelled to Puerto Rico, the committee bill limits the Commonwealth's increase to no more than 150 percent of its previous year title I funding.

The committee bill amends the current law relating to intracounty distribution of funds, in recognition of those States which have school districts which cross county lines. Existing law allocates funds to the county level. If there are a number of school districts within that county, the State educational agency is charged with dividing the funds among districts. Where districts are located in more than one county, this can lead to a number of complicated calculations and unnecessary expense. The alternative is to make allocations in violation of the law.

In response to this problem, the committee bill provides that, in any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Commissioner for authority, during that fiscal year, to make direct allocations to local educational agencies, disregarding county lines. In such a situation, the State shall provide assurances that the allocations will be made using precisely the same factors as are used in title I and that a procedure will be established through which school districts which are dissatisfied with the State's determinations may appeal to the Commissioner.

The committee bill makes one change in the title I formula. It provides that children receiving Aid to Families with Dependent Children above the current poverty level be fully counted in determining a local educational agency's basic title I entitlement, rather than being counted at the level of two-thirds, as under existing law. When the limitation was imposed in 1974, 60 percent of the title I eligible children were those on AFDC. The effect of the formula change adopted in 1974 has been to reduce that percentage to 6.9, primarily concentrated in our Nation's largest cities. The committee bill would fully count those children for title I purposes.

The committee bill does not make any other changes to the basic title I formula for distribution to local educational agencies.

The committee bill adopts a proposal made by the Administration to provide a new, matching grant program for States which devote their own resources to compensatory education. In fiscal year 1976, 16 States were providing more than $364 million for identifiable programs to educate children disadvantaged by virtue of poverty, language achievement level, or location. While the incentive provision in current law rewards States whose total tax efforts for elementary and secondary education exceed the national average. However, the operation of this provision has been exceedingly unpredictable. A State might reform its school finance system but not qualify for additional aid, because of the actions of other States over which it has no control. As a result, no funds were appropriated for this program in fiscal year 1978.

The committee bill replaces this program with a new section which is intended to encourage States to develop or increase their own programs of compensatory education which are similar to title I, when at least half of the State funds are spent in schools with high concentrations of poor children. Qualifying programs would be matched by 1 Federal dollar for each $2 a State put into the program, and would be distributed among school districts within that State on the basis of the title I formula. These additional funds would be used at the local level in the same way that the basic title I grant is used, and no additional requirements or paperwork could be added. Since some States have fully developed State compensatory education programs, while others are in the process of committing State resources to such programs, no State is eligible under the committee bill to receive a supplemental grant in excess of 10 percent of its regular title I grant. Such sums as may be necessary to fund this program are authorized for fiscal year 1980 and the three succeeding fiscal years.

The committee bill also adopts an administration recommendation for a new section providing grants to counties with high concentrations of children from low-income families, both urban and rural. While the original administration proposal concentrated such funds on local educational agencies which enrolled children from low-income families in excess of 5,000 or 20 percent of the district's enrollment, the committee decided that this level of concentration did not accurately reflect the actual need of other systems with equally substantial impact of poor children. Therefore, the committee bill provides that concentration grants are to be made to counties on the basis of the number of children in excess of the number of 5,000 or in excess of 20 percent of the children in the county. These funds are to be used for additional title I programs, especially, but not limited to, instructional programs in the basic skills, undertaken pursuant to the district's basic title I application.

If a county encompasses more than one school district, the committee bill provides that funds should be allocated by the State educational agency to school districts within that county on the basis of their own concentration of children from low-income families. Funds should be distributed to school districts with more than 10 percent enrollment of children from low-income families, or to districts with a higher average low-income enrollment than the county-wide average, whichever results in the fewer districts receiving the concentration funds.

For those States which otherwise might not receive a share of the concentration funds which accurately reflects their needs for additional title I money, the committee bill provides that no State shall receive less than 0.25 percent of the appropriated funds. This will assure a minimum grant of $1 million for 15 States which otherwise would receive less under this new provision. The committee bill provides that, for these States, the additional funds will be distributed among local educational agencies according to the basic title I formula.

In order to assure that these new provisions will receive sufficient funds to guarantee their effectiveness, the committee bill reserves the first $400 million appropriated for title I for the concentration grants, and requires that the matching grants for State compensatory education programs, once funded, continue to be funded at at least the preceding year's level.

The declaration of policy for title I makes it apparent that funds made available under the title constitute a grant made in trust to

State and local educational agencies for the benefit of educationally deprived children residing in low-income areas. The committee bill, in section 122, clarifies the manner in which local educational agencies are to distribute title I funds among eligible schools and children, in order to assure that children in greatest need of special assistance, residing in areas having the highest concentrations of low-income families, are served first. This section codifies the long standing policy of the Office of Education that requires local educational agencies to rank, from highest to lowest, school attendance areas in accordance with incidences of children from low-income families. The existing law provides for two exemptions to the general principles for designating project areas—use of enrollment data and the so-called "formerly eligible" provision. The committee bill provides for two additional exceptions.

First, the bill authorizes the commissioner to promulgate regulations permitting local educational agencies to target lower ranked eligible areas or schools having substantially greater incidences of educational deprivation than higher ranked eligible areas or schools. To satisfy this exemption, regulations must provide, at a minimum, that (1) the local educational agency use an objective measure of educational deprivation which is uniformly applied throughout the district, (2) schools skipped under this exemption are considered project area schools for the purpose of demonstrating comparability, and (3) the local educational agency specifically demonstrates to the satisfaction of the State educational agency that it is complying with the applicable requirements of the section and the regulations promulgated thereunder.

Second, the bill authorizes the Commissioner to promulgate regulations permitting local educational agencies to skip higher ranked eligible school attendance areas or schools where such areas or schools are receiving, under a special State or local program, services of the same nature and scope as they would have received under title I. Regulations should define the phrase "same nature and scope" to provide, at a minimum, that local educational agencies must demonstrate comparability in schools which are skipped.

The committee bill provides that, when a school attendance area is skipped, because eligible areas or schools are receiving services of the same nature and scope from non-Federal funds, children attending non-public schools in such areas shall still be eligible to receive title I services. The skipping of public schools or attendance areas, because of the existence of other State programs for those educationally deprived children, should not alter the eligibility of children in non-public schools in such areas who otherwise would be eligible to participate in title I programs.

With respect to the targeting of children, the committee bill reemphasizes that title I funds must be used to meet the needs of children in greatest need of special assistance. However, the bill provides an exemption from this general requirement for children who were determined to be in greatest need of assistance in a previous year but who, in the following year, while still considered to be educationally deprived, are no longer in the greatest need of assistance. The bill also provides that children who were properly enrolled in a title I program but who have been transferred in mid-year to a nonparticipating school prior to completion of that program may continue, for the duration of the year, to receive title I services. The purpose of this special eligibility is to minimize disruption of the educational program of children in accordance with a mid-year desegregation order or due, perhaps, to a fire or other natural disaster. The special eligibility created by this amendment cannot by itself be the basis for eligibility of children in years after the transfer. After that year, children must either reside in a project area or attend a project area school. Finally, the committee bill authorizes the Commissioner to skip a child residing in a title I area who is in greatest need of assistance if that child is receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under title I.

In 1975, the Comptroller General reported that more than a third of both the local educational agencies and State educational agencies included in a survey "said they had received insufficient guidance . . . on how to make and document needs assessments." The committee bill contains amendments designed to support the recent efforts of the Office of Education to remedy this problem.

The needs assessment requirement, as set forth in the committee bill, prescribes a process of inquiry and analysis which has two major purposes. The first purpose is to generate data on which to base child targeting decisions. To this end, existing data are reviewed to identify the children who are educationally deprived. Additional data are then gathered, if necessary, and reviewed to determine which children are in greatest need of assistance. The second purpose of the needs assessment requirement is to generate data on which to base program design decisions. To this end, existing data are reviewed to determine the general instructional areas on which to focus. Additional data are then gathered, if necessary, and reviewed to determine, in greater detail, the incidence and severity of the needs of actual program participants. This process includes an attempt to determine the factors contributing to children's learning problems.

In sum, a proper needs assessment forms a sound basis on which to plan the utilization of title I funds. Local educational agencies which design programs directly responsive to the special needs of program participants identified in their needs assessments should have little difficulty complying with fund use or distribution provisions, such as the prohibition against supplanting and the prohibition against use of title I funds for general aid purposes.

The needs assessment activities required by this amendment must be read in conjunction with other requirements specifying (1) that title I programs must be focused on meeting the needs of educationally deprived children residing in low-income areas; (2) that program designs must be of sufficient size, scope, and quality; and (3) that research and evaluation information must be employed in considering the design of title I programs. These requirements, when viewed as a whole, establish the program development process. It is expected that the following steps will be followed in the design of title I programs.

First, applicants will decide the general instructional areas on which the program will focus, that is, reading and language arts, and the general target groups, that is, elementary versus high school. These steps are premises for the more comprehensive needs assessment and program design decisions which will be made subsequently. These decisions may be based on existing data and on value preferences or educational theory as to the effectiveness of focusing on a particular instructional area and working with a particular group of children. Of course, an applicant may gather empirical evidence and formulate a more precise means of assessing which areas and which groups need help most. Children not in the targeted general groups need not be included in the more detailed needs assessment steps described below. Similarly, the assessment of instructional needs may be limited to the selected general instructional areas.

Second, the applicant must discover the educationally deprived children, using existing data, and then determine those in greatest need of special assistance.

Third, the applicant must decide the actual program participants, employing specific criteria. This step must be based on the policy of selecting first those who are in greatest need of assistance or those children who were in greatest need in a previous year and are still educationally deprived. The determination of those having the greatest need requires only comparison of the educational attainment of children within the same targeted group. For example, applicants deciding to focus their Title I funds at the secondary level need not document whether a tenth grader has greater need than an individual third grade student. In sum, once the actual program participants have been selected, only they need to be included in the more detailed needs assessment steps to follow.

Fourth, the applicant must discover, in greater detail, the needs of the targeted children in general instructional areas and discover factors contributing to the program participants failure to perform at a level appropriate for children of their age. This needs assessment step is more refined than earlier steps. The purpose of this step is not just to conduct a general review or to determine who should receive services but to discover in detail which precise needs must be met. This step should also identify whether certain special needs could best be met through non-instructional support services.

Fifth, the applicant must decide the objectives and sub-objectives and decide the particular activities and services to be offered. The discovering of needs leads directly to the establishment of objectives which in turn forms the basis for the decisions respecting the instructional strategies chosen. Resource constraints necessarily limit the extent to which activities and services can be provided to the program participants, but the primary impact of resource constraints must fall on the number of participants and the number of general instructional areas selected for emphasis in previous steps. Participants and general instructional areas must be limited so that sufficient funds are available to provide all the activities and services which will ensure each program participant a fully adequate opportunity to accomplish the established objectives.

Several amendments in the committee bill are designed to strengthen the role of parents in the development of programs for their children's education. The committee heard moving testimony from one title I parent, Mrs. Connie Gomes of Providence, R.I., concerning her experiences with the program. Her involvement with an older child's educational problems has led to an increased awareness of the importance education, to the extent that she herself returned to school and completed a college degree. In addition, Mrs. Gomes testified that, because of her experiences as a member of a title I advisory committee, she believed that her younger children would not need the additional services which title I provides. This is indeed a major tribute to the effectiveness of the title I program.

The committee bill provides for increased emphasis on parental advisory councils in the development and implementation of the title I program. Councils are required to be elected, and to meet a sufficient number of times during the school year to affect program design. In addition, the committee bill requires that the public school system provide a program of training for title I parents, so that they are able to fulfill their responsibilities under the program. A new authorization of funds is made by the committee bill to enable parents to participate in training workshops organized by the Commissioner.

Much of the testimony before the committee dealt with problems in title I which are not susceptible of legislative solution. Most of these appear to the committee to be the result of unnecessarily restrictive interpretations of the activities allowable under the existing title I program.

For example, the National Institute of Education found that fewer than one percent of public high school students receive compensatory education services, compared to 20 percent of public elementary school students. Many districts give priority to elementary school children because they believe that these children can receive the greatest benefit from special services. However, districts are also reluctant to conduct high school programs because they are uncertain about the type of programs which would be legal.

The committee wishes to reemphasize that title I is not solely a program for elementary school children. It is expected that the Commissioner will clearly indicate in regulations that the Federal government is neutral with respect to the focus of title I programs. This neutrality will best be indicated by the inclusion of legal models in Office of Education regulations indicating the proper resolution of legal issues that arise when title I funds are used either in the elementary or secondary schools.

An important issue for some State and local school officials is whether title I requires or encourages a particular instructional strategy. A National Institute of Education contractor concluded that title I neither requires nor encourages any particular instructional strategy. Nevertheless, the same contractor concluded that some State and local officials expressed the point of view that Department of Health, Education, and Welfare auditors, in fact, encourage one particular instructional strategy—the pull-out design. The committee wishes to emphasize that title I should not be construed to encourage or require any particular instructional strategy. The Office of Education should develop regulations which inform program administrators how to design "in-class" as well as "pull-out programs. This policy of neutrality is supported by the Institute's research, which did not show one setting was considerably more effective than the other.

Finally, the National Institute of Education found that many compensatory education students are assigned to homerooms exclusively with other compensatory education students. Survey data suggest that these students—one-fourth of all compensatory education students—are separated from higher achieving students for the entire school day. The committee wishes to emphasize that the separation of compensatory education students from higher achieving students for the entire school day is not required by title I, is not a necessary aspect of compensatory instruction, and, to the extent possible, should be avoided. To the extent educationally deprived children receive all of their instruction in a separate setting from higher achieving students, the applicant must be able to show that program participants are receiving a fair share of State and local funds and that programs are substantially different in quality and content from services offered children in regular classrooms and are designed to meet specific needs of children to be served.

The committee bill contains language designed to provide that title I funds are coordinated with other programs. This language provides that local educational agencies are expected to avoid using title I funds for services that could be supplied by another agency and to avoid duplication of effort by considering suggestions made by other agencies concerned with improving the educational attainment of educationally deprived children residing in poor areas.

In 1970 the title I statute was amended to include the "supplement, not supplant" provision. In general, this provision prohibits local educational agencies from using the receipt of title I funds by program participants as a basis for discriminating against such children in the provision of regular State and local funds. In other words, children participating in title I programs must receive their fair share of regular State and local funds. They cannot be penalized in the provision of such State and local funds because they receive assistance under title I.

In their analysis of the application of the "supplement, not supplant" provision to the distribution of regular State and local funds, the National Institute of Education concluded that the provision was necessary and provided sufficient flexibility. However, it concluded that although regulations promulgated by the Office of Education prescribe the principles of supplanting, and include some, but not all, of the tests used by the Office for determining compliance with the provision, such regulations are not sufficiently comprehensive because some tests are not expressly set forth in the regulations and the regulations are not sufficiently clear because they do not take into consideration the needs of program administrators. Individuals who have been active in title I for a number of years and who have devoted substantial amounts of time to studying and interpreting the provision have been able to develop a clear understanding of the legal direction that is being provided. However, for those administrators who are new to Title I or have not found the time necessary to study the statute and regulations, the application of principles to day to day situations is not sufficiently clear. This lack of sufficient clarity increases the likelihood that (1) school districts will not comply with the law because they do not understand what is expected of them; and (2) State and local administrators will pursue overly restrictive policies not prescribed by federal law.

These findings suggest that Office of Education regulations must take into consideration the needs of the affected audience and must be sufficiently comprehensive. All tests developed by the Office pertaining to supplanting must be published in the Federal Register in accordance with Section 431 of the General Education Provisions Act. Furthermore, to avoid the issuance by State educational agencies of overly restrictive policies, Office of Education regulations must contain legal non-supplanting models and include examples explaining how the general principles apply to day to day situations.

A National Institute of Education contractor concluded that a statutory amendment is required to carry out the intent of Congress in the Education Amendments of 1974 to title I that States and school districts be encouraged to establish programs similar to title I to serve educationally deprived children. The present provision in the statute, proscribing supplanting of state and local funds by title I funds, uses children "participating" in title I programs as the frame of reference for considering whether supplanting has occurred. The Office of Education, in an attempt to carry out the intent of Congress to encourage an expansion of programs for educationally deprived chlidren, has used all children eligible for title I services as the frame of reference for considering whether title I funds have supplanted special state and local funds that focus on educationally deprived, handicapped, or bilingual children. The Office of Education's interpretation avoids the following consequences which would occur, under certain circumstances, if only children actually "participating" in title I programs were considered in determining whether supplanting has resulted from the distribution of such special state and local funds: (a) special funds, which could have been used to provide compensatory education programs to children eligible for, but not actually "participating" in, title I must be used for children already receiving title I services; and (b) inhibiting flexibility in coordinating such special funds and title I funds, so as to serve all children eligible for title I. To avoid such consequences, this amendment clarifies that the Office of Education's interpretation is consistent with the intent of Congress.

In sum, the purpose of the supplanting provision with respect to the distribution of regular base state and local funds is to insure that children participating in title I programs receive their fair share of such base funds. The purpose of the supplanting provision with respect to special State and local funds is to insure that educationally deprived children residing in title I eligible areas qualifying for such special funds receive their fair share. Thus, the effect of this amendment is that the statute will include two distinct sections pertaining to supplanting: the first section is applicable to regular base state and local funds and to state phase-in programs qualifying for an exemption under section 131(e); the second section is applicable to special State and local funds qualifying for an exemption from the comparability and excess cost provisions, irrespective of whether the option provided thereunder is exercised.

The amendment also clarifies the circumstances under which an agency may take into consideration the availability of title I funds with respect to the distribution of special state or local funds. In general, special State and local funds must be distributed according to state or local law without considering the availability of title I funds. Then, title I funds are distributed by the agency according to the Federal rules.

The general principle that special State and local funds must be distributed without regard to the availability of title I funds is subject to an important qualification: the existence of title I funds can be taken into account in the distribution of special State or local funds if the State or local educational agency employs a plan for distributing such funds which is based on objective criteria formulated in accordance with the principles described below.

The objective criteria requirement ensures that State compensatory education funds will be distributed without discrimination against title I project areas or children participating in title I programs, while at the same time permitting comprehensive and coordinated planning by the school district and joint distribution of title I and SCE funds in cases where no discrimination exists.

To comply with the provisions of the amendment pertaining to the formulation of objective criteria, the applicant agency must:

(1) formulate objective criteria for determining which children will receive assistance under the special state or local program;

(2) identify the children satisfying the objective criteria and the schools or grade-spans in which such children are enrolled or school attendance areas in which such children reside;

(3) determine what percentage of children of the total number of children in the district who satisfy the objective criteria reside in areas eligible for assistance under this title;

(4) multiply the percentage of children residing in areas eligible for assistance under this title who satisfy the objective criteria by the total amount of state and local funds the local educational agency will provide for the special state or local program in all school attendance areas.

(5) distribute to educationally deprived children, in the aggregate, residing in areas eligible for assistance under this title, an amount of such special state or local funds which is no less than the amount determined in step 4;

(6) ensure that educationally deprived children residing in areas eligible for assistance under this title, satisfying such objective criteria receive assistance under either this title or under such special state or local program before any child who does not satisfy such criteria receives such assistance;

(7) ensure that all educationally deprived children in greatest need of assistance residing in title I areas who receive assistance under a special State or local program in lieu of title I, and who would have received assistance under title I if such special program did not exist, receive services under such special program that are of the same nature and scope as would otherwise be provided under title I; and

(8) ensure that educationally deprived children attending private schools will be selected for participation in Title I programs according to general procedures for ranking school attendance areas without regard to exemptions to that procedure allowing

children residing in certain areas to receive special State and local funds in lieu of title I.

The third provision to assure equity in funding of title I programs is the requirement of current law for comparability. The committee bill ensures that services provided with State and local funds will be comparable in all areas of a district where each area in the district has been properly designated, under regulations promulgated by the Commissioner, a title I project area.

The committee bill reflects the intent of Congress that comparability be determined and maintained in all circumstances, except with respect to State and local funds specifically exempted by statute and except as provided in the next sentence. Certain exemptions provided for in existing regulations published in the Federal Register (41 FR 42894 et seq., September 28, 1976) shall continue in effect. The applicable regulations provide that local educational agencies that receive ninety-five percent of their funds for education from federal sources and those which operate only one school serving children at the grade levels at which title I services are to be provided are to be exempted from the comparability requirement. Furthermore, schools with an enrollment less than 100 should not be included in the comparability report, provided that if the local educational agency operates schools in project and non-project areas, such agency files a statement with the State educational agency which sets forth the policies it will follow concerning the equitable allocation of instructional resources.

Since services must be comparable, differential costs involved in providing the same services to different size schools or schools in remote rather than near locations, for example, may be taken into consideration in determining comparability. A weighting system might be employed, for example. However, it is important that adjustments of this kind be limited in their effect to the purpose for which they are valid. Thus, methods of taking into consideration differential costs must not have the effect of exempting any school from compliance with the comparability requirement.

The Committee bill contains provision for complaint resolution at the local educational agency level.

Because title I is a program intended as a direct benefit to educationally deprived children, it is most appropriate that procedures be established whereby these beneficiaries may require the trustees of the funds to account for their actions. Since the beneficiaries are children, it is appropriate that the necessary procedures provide access to parents, parent councils, and others concerned with the proper protection of children's legal rights.

The complaint resolution procedures required by this amendment are intended to provide thorough inquiry into, and prompt and definite resolution of, each complaint that is made on behalf of children eligible to participate in title I programs.

Title I funds have always been intended to reach eligible students in nonpublic schools, as well as those in public schools. However, the study by the National Institute of Education indicates that less than four percent of private school students living in title I districts receive title I services. Only 43 percent of the title I districts that contain nonpublic schools provide title I services to nonpublic school children.

In addition, participating private school children receive an average of approximately one hour per week of compensatory education, compared with an average of $5\frac{1}{2}$ hours per week for all title I children.

For this reason, the committee intends that local program evaluations required by the bill include evaluations of those programs and projects designed to assist eligible title I students attending private elementary and secondary schools. In testimony received by the committee, it was clear that there was inadequate data dealing with the participation of private school children. Consequently, in the judgment of the Committee, such evaluations are essential to insure that there is sufficient information available concerning this important aspect of the title I program.

It is the intent of the Committee that the Commissioner exercise the by-pass authority in a manner which will assure a prompt resolution of complaints from representatives of nonpublic school children that such children are not participating in title I programs. In this respect the committee expects the Commissioner to adopt and publicize systematic procedures for the prompt processing of complaints.

The committee bill basically repeats the language of existing law regarding the participation of private school children, with two amendments. First, a new provision requires equal expenditures on title I children in private schools, but in determining this amount the number of such children to be served and their special educational needs may be considered. The addition of this equal expenditure requirement is intended by the committee to insure that children enrolled in nonpublic elementary and secondary schools will receive comparable benefits from title I programs according to the standards presently required by regulation.

Second, the committee adopted language providing for an expedited procedure for implementing the Commissioner's bypass authority. In taking this action, the committee recognizes that there have been lengthy delays in the exercise of such authority in the past. These delays have adversely affected the participation of nonpublic school children in title I programs.

In adopting the new language providing for an expedited procedure for invoking the bypass, the committee did not adopt the administration's suggestion that existing judicial review provisions also be repealed. The committee intends that all eligible children receive the services to which they are entitled, but does not want to deprive any segment of the population be deprived of their rights to a determination of the equitable distribution of title I funds.

NIE's research on State compensatory education programs noted that while State coordinators of these programs identified a number of problems in the relationship between title I and their own State programs, nearly all these problems arose from lack of clarity in interpretations and guidelines issued under title I or from inconsistencies in Federal monitoring and enforcement. The special exemption from comparability requirements granted in the 1974 Amendments apparently renewed the one specific barrier in the legislation to full implementation of State programs.

However, testimony of some State coordinators of State programs suggests that concerns remain regarding the distribution of State compensatory funds in areas ineligible for title I. Therefore, the Committee bill rewrites these sections of present law to make them as clear as possible. We have also been as precise as we can be in laying out the requirements we believe should apply in order to gain a State or local compensatory program an exemption from title I's excess cost and comparability provisions. The whole purpose of these requirements is to assure title I children a fair share of these funds but not to secure for them any favoritism.

The Committee bill also includes a provision giving a new exemption from the comparability and excess costs provisions for State programs which are being phased into full operation by a date certain. The exemption is identical to that presently provided for certain special State and local programs, e.g., State and local compensatory education programs. The amendment specifies ten conditions which must be complied with in order for the Commissioner to certify the program's eligibility for the exemption.

Another amendment affecting both this new exemption for State phase-in programs and also the old exemption for State and local compensatory programs would require advance determinations by the Commissioner or State educational agency that special State or local programs, as legislated, satisfy the requirements for an exemption from the excess cost and comparability provisions. In addition, the amendment requires that the State educational agency monitor local educational agencies to ensure that such programs are being implemented in accordance with the applicable State or local requirements. It is the Committee's expectation that this pre-expenditure certification procedure will reduce the number of audit findings concerning this issue.

The Committee bill also creates a limited exemption from the "supplement, not supplant" requirement, where the amount of State or local compensatory education funds (satisfying the conditions for an exemption from the excess costs and comparability provisions) used in areas eligible for assistance under title I when added to the amount of title I funds provided to the local educational agency equals or is greater than the amount of title I funds a local educational agency would have received that year had title I been fully funded. Under this limited circumstance, the local educational agency may use additional State compensatory education funds exclusively in non-title I areas until those areas are brought up to the same level of total compensatory education funding (State and Federal) provided, per program participant in the title I areas. After the non-title I areas are brought up to this level, the "supplement, not supplant" requirement is fully applicable to the distribution of any additional State compensatory education funds.

The purpose of the amendment is to provide State and local educational agencies with an incentive to increase their level of State and local compensatory education expenditures.

Once the percentage of poverty children in a Title I school reaches a very high level, it makes little sense and is cumbersome to enforce requirements that Title I serve only Title I children, or that Title I services be supplemental in character. As noted earlier, high concentrations of poor children serve to multiply the adverse effects of economic deprivation and create undue burdens on a school's ability to support even basic educational programs.

Several State and local school personnel who were surveyed by the NIE-supported Legal Standards Project argued that it is virtually impossible to design "special" programs for the vast majority of the school students which do not also meet the needs of the entire school. Rather, it would seem to be a sounder educational practice to plan a curriculum focusing on the entire educational program and thus avoid the considerable administrative demands resulting from separate recordkeeping and scheduling of special programs.

The Committee bill permits schools having 80 percent or higher concentrations of children from low-income families to utilize supplementary State and local funds along with Title I funds to design a single Title I program in which all children in attendance will be cosnidered program participants, including those children who are not considered educationally deprived, where the local educational agency satisfies certain requirements. Where such requirements are satisfied, such schools will not be required to account for the Title I funds at the level of the individual child.

One of the requirements for a schoolwide project is that the average per pupil amount of Federal, State, and local compensatory education funds available for the schoolwide plan is at least 32 percent of the average per pupil expenditure in the school district. This is the level that the administration estimates, on the average, that will assure the success of a schoolwide plan.

The Committee recognizes that flexibility to use title I funds for a schoolwide project must be conditioned by safeguards such as the maintenance of effort requirement (section 133(b)(7)) and the prohibition against dilution of services to students eligible for basic title I services (section 133(b)(8)). However, the committee also recognizes that, in some instances, it may be at least as efficient in terms of total expenditures at the school site to operate a program benefiting all students as it is to provide services only to title I-eligible students. Where this may be the case, the committee gives the State education agency the authority to waive the "32 percent" requirement of section 133(b)(8) for a schoolwide project when it finds that title I services can be made available to all students in the school as cost-effectively as if offered to just title I-eligible students, and the provision of benefits to all students is not accomplished at the expense of services available for title I students.

The committee found that the existing prohibition against title I staff assuming noninstructional duties in some cases creates ill will among teachers in the same school.

The committee has, therefore, included an amendment permitting personnel paid entirely by Title I funds to be assigned to non-instructional duties as long as the time consumed in performing such duties was approximately the same proportion of time as that spent by non-title I personnel, but in no case could such time exceed 10 percent of such person's total time.

In general, this exemption is intended to apply to such tasks as hall duty, lunch room supervision and playground monitoring, and other similar tasks that are necessary to the orderly conduct of the school day, and are usually shared among the staff members of a school. The specific duties will vary somewhat among schools and districts. However, in no case should this exemption include substitute teaching of a non-title I class, or result in Title I staff performing for pay any duties that non-title I staff must perform without pay.

PART B—PROGRAMS OPERATED BY STATE AGENCIES

In addition to funding programs operated by local school districts, Title I authorizes grants to State educational agencies to operate programs to meet the special educational needs of three populations of deprived children who lack an affiliation with particular school districts: handicapped children in State-supported institutions; children in State institutions for neglected or delinquent children or in adult correctional institutions; and migratory children of migratory agricultural workers and migratory fishermen. Payments for these programs take precedence over all other Title I programs and are to be made to the full extent of their authorizations, with no pro-ration. Each of the State programs contains its own particular requirements regarding payments and uses of funds.

Testimony before the Committee revealed that these programs seem to be working well and have enabled hundreds of thousands of children to receive educational benefits that would not be provided otherwise.

(1) *State handicapped program*

The State handicapped program created in Public Law 98–313 presently serves approximately 224,000 children in over 6,900 centers or schools, an increase from 166,000 children in 3,700 schools in fiscal 1974. Appropriations have increased from $85.8 million in that year to about $121.6 million in fiscal 1978. As the program has grown, it has changed in character as well. In 1966, 97 percent of the children were in residential programs. In fiscal year 1978, 40 percent were in residential programs, 49 percent in State-supported day programs, and 8 percent in follow-along programs administered by local school districts. School districts totaling 3,124 are participating in this latter part of the program which permits 89–313 funds to follow a child who leaves a State-operated or supported program and enters a special education program operated by a school district. In addition, 89–313 is serving a much more diversified population than in its early years, when it focused on severely handicapped institutionalized children such as mentally retarded and emotionally disturbed children.

The committee bill continues the program without change through fiscal year 1983.

(2) *State neglected and delinquent program*

The Title I State program for neglected and delinquent children presently serves about 27,000 children in 437 institutions. These participants constitute about 72 percent of eligible neglected, 65 percent of eligible delinquents, and 34 percent of the youth in adult correctional facilities. Appropriations for fiscal 1978 totaled about $29 million.

The nature of Title I services provided these children varies considerably, but educational facilities are generally poorer in adult correctional institutions. Overall, about 70 percent of Title I expenditures in these institutions are devoted to basic skills instruction, most commonly in the form of individualized instruction. This focus seems appropriate in light of the fact that over 50 percent of the institutionalized delinquent population suffers from severe reading problems and 34 percent are functionally illiterate. A national evaluation of the program found that about 56 percent of participating students felt the Title I classes in reading and math were teaching them more than other classes they had taken in these subjects.

Because many of these youth will not continue their education beyond the mandatory age, funds are also targeted in vocational instruction. Counseling and psychological services are other frequently supported activities.

The committee bill provides that States applying for programs for the neglected and delinquent in which children are likely to participate for more than one year may apply only once every three years. This should substantially reduce the paperwork involved in this program.

In addition, the committee bill authorizes the Commissioner to make grants to State and local educational agencies to support projects to facilitate the transition of children from State-operated institutions into locally operated programs. Under the current program, too often children do not receive adequate educational and support services as they seek to make the difficult transition from an institution for the neglected and delinquent to a regular school program. This new program should provide the transition services they need to make the adjustment. Such sums, not to exceed 5 percent of the amount that State agencies are entitled to receive for these services, are authorized to be appropriated for each fiscal year through 1983.

(*3*) *State migrant program*

States receive grants to educate migrant children based on the full time equivalency of school-aged migrant children residing in the State as determined by the Migrant Student Records Transfer System. Upon approval of its application, a State has the option to operate programs for the State level or to provide services through the local school districts which migrant children attend at a given time.

Appropriations for the program have grown from $78 million in fiscal 1974 to over $145 million in fiscal 1978. Participating children have increased from 162,480 full-time equivalent children in fiscal year 1974 to 296,430 full-time equivalent children in fiscal 1978. This growth is primarily due to the inclusion in 1974 of formerly migratory children who have settled out of the migrant stream for up to five years. These "five-year" children presently constitute about 31 percent of the total children counted; of the remainder of children, 44 percent are interstate migrants and 25 percent are intrastate migrants.

State directors of migrant education programs testified that what little data is available show achievement gains for migrant students, particularly in improving their English language skills. Witnesses noted, though, that the program has succeeded in helping to curb the alarming migrant dropout rate and in providing much-needed health and nutritional benefits.

Despite the success of the title I migrant program in identifying and serving children who were virtually ignored prior to this legislation, testimony indicates that the needs of those children are not yet being adequately met. For example, numerous States and communities with migrant education programs are making little or no effort to involve parents, although given their unique lifestyle, parental participation is crucial to insure that these children remain in school. Also, the lack of stability in the average migrant child's educational process speaks for the necessity of summer programs, but few States have implemented these programs due to their higher costs.

Therefore, the Committee has adopted amendments requiring the establishment of parental advisory councils for these programs and requiring the Commissioner to adjust the count of children used to determine payments in the program in order to take account of the special needs of migrant children for summer programs.

The Committee is aware of the importance of cooperative efforts among the States to deal with the unique problems of migrant children. And, although the States have cooperated with the Migrant Record Transfer System, and although some States have gone further with their own efforts, like Texas and Washington State, much more needs to be done. Therefore, the Committee has adopted an amendment authorizing funds separately for the express purpose of operating the record system and to support other activities to improve the inter-State and intra-State coordination of programs for migrant children.

The committee is concerned that the current regulations implementing this program have adopted a restrictive definition of agricultural activity as it affects the children of forestry workers. These regulations in the relevant portion include "any operation involved in forest nurseries and fish farms. The term does not include cutting, transporting, and sawing of lumber."

The committee is not aware of any legislative history supporting this interpretation and trusts that future regulations will remedy this oversight. Such a change would, according to information provided by the Department of Health, Education, and Welfare, result in approximately 2500 new eligible students, primarily in the States of Georgia and Maine. It is the Committee's view that migratory workers involved in the cutting and harvesting of timber are within the definition of migratory "agricultural workers" and as a matter of equity are entitled to such assistance.

(4) *Payments for State programs*

A last amendment the Committee adopted affecting these State programs in Title I changes the "hold-harmless" provision. Presently, there is a 100 percent hold harmless to the level of funding for fiscal 1974 for all of these programs. The Committee proposes to change this to an 85 percent hold harmless for the migrant and neglected and delinquent programs; the hold-harmless provisions for State institutions for the handicapped remains at 100 percent. This amendment affects only the hold-harmless provision for these programs; it in no way affects the "off-the-top" funding of all these programs which would continue unamended.

PART C—STATE ADMINISTRATION

The major responsibilty for managing and monitoring Title I local school district programs is shouldered by the State educational agencies. NIE discovered, though, that many States are confused as to their exact responsibilities and authority in the areas of rulemaking, disseminating information, providing technical assistance and monitoring and enforcing compliance. NIE attributes this confusion to the ambiguity and degree of difficulty of the statue and to the inconsistency of Federal monitoring, which is discussed in a later section.

As a consequence, NIE found that States have adopted widely different administrative policies and that some do not fulfill all of their responsibilities. Most seriously, NIE concluded, the failure of Title I's legal framework to provide clear guidance has in some cases led to State practices that may not be in compliance. For example, some State's application forms request only limited information from local school districts and may result in these States approving programs that do not meet all requirements. A review of audit policies also disclosed that several State educational agencies do not conduct audits by compliance with every regulation, as required by law, but only audits of total expenditures.

States also differ widely in the resources available for administration under the set-aside and in how they use these resources. Although there is a formula for determining the State administrative set-aside, it does not take into consideration the numbers of Title I districts in the State. Thus, while States average about $2,700 in administrative funds per school district, one State has only $343 per school district and another has over $13,000.

Some States use most of this set-aside on staff, while others use substantial portions for expenses such as contractors and indirect costs. In general, NIE concluded that those States which use most of their administrative funds on staff are more active and more effective in dealing with local school districts. Those States which generally played a less significant role in providing guidance and assistance were those which used smaller proportions to hire staff.

One of the major problems cited in testimony before the Subcommittee on Education, Arts, and Humanities involved the cost and paperwork to State educational agencies which was required by Federal law, which sets aside a fixed percentage of program funds for State administration of each program. Separate reporting and accounting are required for each Federal program, and separate staffs must often be maintained at the State level to prove that funds have not been misspent.

In order to provide increased flexibility in State administration of title I and title IV, the committee bill provides for a consolidated State administration title in a new title V of the Elemenary and Secondary Education Act. This title, which is discussed later, should offer States the flexibility they need to operate both programs most efficiently, as demonstrated by the needs of the individual States, while simultaneously assuring that the purposes of the Federal legislation are fully carried out.

Therefore, the committee bill provides that those actions of the Lawyers' Committee draft bill which were considered to be the "duties of State educational agencies" continue to remain their obligations, but also apply to title IV, the consolidation title.

The committee bill provides that a State wishing to participate in title I programs has on file a single, one-time general application and has submitted a plan for monitoring compliance by local educational agencies with the provisions of the title. This plan shall be submitted at least once every three years, and shall set forth a schedule of regular visits by State agency personnel to local title I projects, plus procedures for verifying information, regular audits, compliance resolution, and monitoring of compliance by local educational agencies in providing equitable services to children enrolled in nonpublic schools.

The committee bill specifically requires that the State set up procedures for resolving complaints from representatives of children enrolled in private schools as well as describe the means by which it has insured that the requirement for the participation of nonpublic school children is being complied with by the local education agencies within that State.

The committee has adopted this language because it received allegations of serious difficulties with regard to local education agency compliance with the requirements for nonpublic school participation, and because of the low numbers of nonpublic school students and low per-student expenditures reported in the NIE study of title I. By adopting this language the committee reinforces its intent that the requirements for nonpublic school participation be fully implemented in all programs authorized by title I.

In addition, the committee bill requires the State educational agency to make periodic evaluation reports on the effectiveness of their title I programs. Each State educational agency shall keep necessary records concerning the expenditure of title I funds. In addition, no State is allowed to take into consideration title I payments in determining the eligibility of any local educational agency for State aid, or the amount thereof.

PART D—FEDERAL ADMINISTRATION

Inasmuch as Title I is not a program of general aid, Federal administration of the use of funds is an important feature of this legislation. The primary role of the Federal government with respect to administration of Title I is to establish the rules under which the program operates and review the actions of State and local educational agencies to ensure that these rules are observed.

The National Institute of Education report on Administration of Compensatory Education examined the Federal statute, the regulations, and the Office of Education's efforts to carry them out. The NIE concluded that the legal framework is consistent, the regulations are basically sound and the OE management system is workable. In addition, NIE noted that Title I administration is probably better now than at any time since the program was enacted.

However, the NIE discovered that there are many problems with the ways in which OE conducts the day to day management of the program. The NIE provided evidence that OE is implementing administrative requirements in a manner which is neither clear nor consistent, and that this inconsistency is confusing States and local educational agencies about their obligations. In particular, NIE found that OE does not apply consistent standards in identifying violations of the "supplement, not supplant" requirements. Some OE officials administer the same requirement in different ways at different times. Furthermore, officials at various levels in the OE hierarchy administer the relevant requirements differently and the findings of program review teams and official audits are often reversed. The net result, according to the NIE, has been a decline in the level of monitoring and enforcement of these provisions and a weakening of the statutory guarantees.

A second weakness in Federal administration deals with the clarity of the legal framework. The NIE found that the law and regulations are not written clearly enough to be understood by those who implement the program. In addition, OE provides interpretation of this local framework on an inquiry by inquiry basis and does not make clear in a general sort of way what are permissible activities. Many of the amendments discussed in the preceding sections of this report, as well as the overall rewriting of the statute, are intended to rectify this problem.

Third, NIE found the Department of HEW had a poor record in audits. Although a large number of audit exceptions have been made in recent years, less than 5 percent of the amounts involved are ever acted upon by OE and less than 1 percent of these funds are actually recovered.

Part of the underlying problem may stem from the fact that fewer persons are assigned to administer title I today than there were in 1971, when its appropriation was only $1.5 billion. Presently, there are 86 positions assigned to title I in OE regional offices and headquarters, compared with 111 in 1971.

Several of the aforementioned problems deal with internal matters in OE over which Congress has no control, although the Commissioner of Education has testified that he is attempting to rectify this situation. However, the Committee does recognize its responsibility to aid in these efforts by removing the ambiguities in the legislation.

(1) *Evaluation*

For all OE programs, including title I, the General Education Provisions Act requires that the Secretary provide the House Committee on Education and Labor and the Senate Committee on Human Resources with an annual report evaluating program effectiveness in achieving legislative purposes. The report is required to set forth goals and specific objectives in qualitative and quantitative terms for all programs and projects assisted which are evaluated and relate those goals and objectives to the program's purposes.

The General Accounting Office, however, has conducted a recent review of the annual evaluation report on OE programs for fiscal year 1975 which showed that most of its statements of program goals and objectives merely restated the legislative purposes or general goals, and did not set forth specific objectives. Quantitative objectives, even in the broadest sense, were established for very few programs.

The Office of Education responded to this report by agreeing with the GAO observations and by stating that OE has seldom established specific objectives. In its defense, OE stated that it should not better define the program objectives to be evaluated as required by the General Education Provisions Act, because, in spite of the legislative requirement to specify objectives, OE believe that there are limits on its "authority and ability" to increase the clarity and specificity of program objectives.

The Committee believes that OE should comply with the General Education Provisions Act requirement as GAO recommended. In its annual evaluation report on OE programs, HEW should set forth goals and specific objectives in qualitative and quantitative terms for all programs which are evaluated, including Title I. In addition, OE should initiate dialogues with the House Committee on Education and Labor and the Senate Committee on Human Resources to seek understanding and agreement on program evaluation matters, including the specific program objectives to be used for evaluation, the acceptable evaluation data needed by congressional decisionmakers, and the measure to be used.

The committee notes a significant lack of data with respect to the title I participation of children attending private elementary and secondary schools. In adopting the provision for independent evaluations by OE, the Committee intends that these evaluations include information concerning the participation of such children.

Another finding of the GAO report was that there is a need to improve the adequacy of State and local evaluation reports on Titles I and VII of ESEA, if the reporting systems based on aggregated local agency data are to be effective. The GAO noted OE's plans to require State and local use of the Title I evaluation models (or use of alternatives that the Commissioner of Education certifies will generate compatible evaluation data) to improve State and local evaluation reports. However, GAO concluded that questions exist about whether the Title I evaluation models will be able to provide valid and acceptable data to meet program information needs. If the models could be made in the evaluation reporting system based on aggregated local data which would enable it to meet program information needs at Federal, State and/or local levels.

As GAO recommended, the Committee believes that OE should assess whether State and/or local evaluation reports for Titles I and VII can be improved so that they supply officials at Federal, local, and/or State level with the reliable program information they need for decisionmaking. This includes assessing the adequacy of the Title I evaluation models and related data. If OE determines that it is unrealistic to expend resources on improving these programs' State and local evaluation reporting systems based on aggregated data, then it should take the needed steps to adopt more feasible and effective approaches. This should include eliminating unwarranted reporting requirements and if necessary proposing to the Congress any legislative changes needed to accomplish this.

Although OE stated that it concurred with the general thrust of GAO's recommendation, the agency implied that its actions underway to improve State and local evaluation reports are likely to be successful. Statements by OE evaluation office officials directly contradicted this implication and questioned the practical feasibility of aggregating local level data. Therefore, the Committee urges a thorough review by OE of its plans in this area, with a redirection or abandonment of those plans if they cannot realistically accomplish their goals.

The Committee has adopted an amendment to Title I of ESEA in the evaluation section which requires OE to consult more directly and regularly with local and State administrators. This consultation should give OE good advice on the practicality of its plans.

Another concern brought out by GAO has to do with State and local evaluations in general. Such evaluation reports on Federal elementary and secondary education program effectiveness are intended to provide information on which local, State, and Federal officials can base policy and program decisions. But, GAO found through a questionnaire that State and local officials see important differences in the types of evidence of program effectiveness that they themselves and officials at other levels—Federal, State, and local—prefer.

Therefore, better communication is needed among the three levels about the information they need to facilitate policy and program decisions at each level. The questionnaire results also raise the issue of whether all three levels can be served by a reporting system based on the same reports.

Although State officials view OE program officials as being most impressed by standardized norm-referenced test results, and local officials view State and OE officials in the same manner, State and local officials say that they are not most impressed by such results. Local officials prefer broader, more diverse information on program results than just these test scores and they are most impressed by improvements in curriculum and instructional methods and gains in the affective domain (likes, dislikes, interests, attitudes, motives, etc.). State officials are most impressed by results from criterion-referenced tests.

It seems on the other hand, that OE prefers hard objective data on students' cognitive improvements. Office of Education officials have asserted that this means gain scores on standardized norm-referenced achievement tests because these are most available.

The widespread use of standardized norm-referenced tests to evaluate State and local Title I, and VII programs indicates that State and local officials have more frequently based their evaluations on the kinds of results they believe would be likely to most impress higher level officials than on their own preferences.

In connection with the assessment recommended above, GAO also recommended that the Secretary of HEW direct OE to review the types of State and/or local program evaluation information collected (or planned to be collected) on programs authorized by Titles I and VII of the Elementary and Secondary Education Act. The Committee believes that this recommendation should be implemented and the review should include an assessment of the information's usefulness at each level and should determine:

> Whether it is realistic to attempt to serve Federal, State, and local levels with aggregated data based on local agency evaluation reports.
>
> How the information needs at the local, State, and Federal levels can best be met.

Whether unnecessary duplication exists or will exist in meeting Federal information requirements through the State and local reporting systems as well as through OE national evaluations on these programs, and if so, how it should be eliminated.

During this review process to define the evaluation information needed at State and local levels, OE should seek the views and cooperation of the State and local officials who are intended to use the results.

The last major recommendation of GAO in this area was that OE should more strongly emphasize the purpose of proviing information to the Congress when planning, implementing, and reporting on evaluation studies. In particular, more attention should be given to timing the studies so that they more clearly coincide with the legislative cycle and briefing congressional committee staff more frequently. The committee fully concurs with this recommendation and urges OE to comply.

Although the committee notes these problems with the evaluation activities undertaken by the Office of Education, it has found the study of compensatory education conducted under the same authority by the National Institute of Education (NIE), to be of great value. NIE's study evaluated the extent to which (1) the Title I formula directs funds to areas with concentration of low income children; (2) the funds provide additional services to participating children, and (3) the series affect student achievement. The study also examined the effectiveness of the administration of the program. The NIE study provided valuable information to the committee during its consideration of this bill.

Perhaps in recognition of the value of this study, the Administration proposed that $3 million per year be provided to NIE from section 151 funds. The committee has not accepted this proposal because it does not wish to institutionalize a Title I evaluation bureaucracy at NIE. Nevertheless, NIE has clearly developed an acute understanding of the operation of this complicated program and demonstrated competence and expertise in evaluating it. The committee, therefore, urges the Assistant Secretary for Education to insure that planning for evaluation of title I makes provision to utilize NIE's experience with the program. The Committee does not wish to specify a level of funding for NIE's involvement, nor to define a research agenda. However, studies of the operation of the comparability requirements at the local level, of services to educationally disadvantaged students in non-Title I schools and of the unique educational needs of low-achieving children would appear to be useful. The committee found that reviewing NIE's plans in compensatory education before initiation of the research to be helpful and hopes that the agency will make its plans available to the committee after its role has been better defined.

(2) *Complaint resolution*

The committee bill requires the Commissioner to set up a procedure for complaint resolution from final decisions of State educational agencies concerning violations of title I or of the General Education Provisions Act. Such complaints could come from parent advisory councils, parents, teachers, or other concerned organizations and individuals. The bill sets up statutory procedures for dealing with such complaints, including the requirement that specific time limits for resolution be set, and that appropriate notice be given to the complainant, in writing, within 10 days, of the resolution of the appeal.

This section builds upon other sections of the rewritten title I requiring the implementation of similar complaint resolution procedures at the local and State educational agency level. However, the committee wishes to emphasize that these amendments prescribing a complaint resolution process at all three levels should not be construed to prohibit a beneficiary of title I or his representative from bringing a private suit in District Court without first exhausting such administrative procedures. It is particularly important that immediate access to the courts be available where beneficiaries allege that a State or federal policy is inconsistent with title I or that the alleged violations are systemic.

(3) Audits and audit exceptions

This amendment provides that the Inspector General of the Department of Health, Education, and Welfare shall make provisions for audits of grants under this title to determine, at a minimum, the fiscal integrity and legal compliance of grantee and subgrantee actions. The Committee is disturbed by the aforementioned NIE findings concerning the decline in the level of HEW audit activity focused on Title I. The committee wishes to emphasize that the Inspector General of DHEW should insure that Title I programs are audited on a regular basis.

The amendment address the Commissioner's responsibility for Title I audit resolution by providing that the Commissioner shall adopt procedures to assure timely and appropriate resolution of Title I audit findings and recommendations. Such findings shall include timetables for each step of the resolution process and an audit appeals process. Furthermore, the amendment provides that where the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, such repayment may be made from funds derived from non-Federal sources or from Federal funds other than funds appropriated to carry out the purposes of this title.

The committee has in the past expressed its dissatisfaction with the Title I audit resolution process. Adequate improvement has not been forthcoming. The committee directs the Commissioner to promulgate regulations describing each step of the audit resolution process and deadlines for its completion. The committee expects that such regulation will reflect the relationships among the various OE responsible offices and the Office of the Inspector General. The committee notes that a recent study prepared by the Office of the Assistant Secretary for Education, the DHEW Sanction Study, 1977, states that ". . . as of this writing it may be said that coordination among the various responsible OE offices (BESE, Audit Liaison and Coordination Office, Audit Hearing Board, and Finance Division) is poor. Their roles are not clearly defined and written procedures have yet to be finalized."

The committee further expects that in the process of developing adequate audit resolution procedures, the Commissioner will develop (1) a mechanism for coordinating audit resolution among the various responsible offices; (2) common audit standards agreed upon by OE.

the Office of the Inspector General, and HEW's Office of General Counsel; (3) standards for adequate documentation of audit findings; (4) regular audit status reporting to trace audits in progress; to document where in the audit resolution process they are; and to record their final disposition, (including collection status); (5) and methods for audit follow-up to insure that corrective action has been taken.

(4) *Withholding by the Commissioner*

This amendment adds to the Commissioner's present withholding authority the discretion to suspend the initiation or continuation of a withholding action by entering into a compliance agreement with a State educational agency. The Committee intends that if a compliance agreement has been entered into and the Commissioner subsequently finds, after reasonable notice and opportunity for a hearing, that there has been a failure to comply substantialy with the compliance agreement, the Commissioner shall not make further payments under this title to the State (or in his discretion, that the State educational agency shall not make further agreements under this title to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply.

Thus, if the Commissioner finds that a State educational agency has not complied with a compliance agreement, the Commissioner shall withhold payments under this title until he is satisfied that there is no longer a failure to comply. The Committee does not intend that another compliance agreement be entered into if the Commissioner. after notice and opportunity for a hearing, finds that a State educational agency has not complied with the terms of a compliance agreement. In such a case, the Committee intends that Commissioner withhold payments under this title.

The Committee believes that the Commissioner would be aided in making a finding of "a failure to comply substantially with any assurance set forth in the application" if the Commissioner adopted and applied standards that gave meaning to "a failure to comply substantially." The Committee strongly urges the Commissioner to adopt such standards and to apply them in appropriate situations.

The Committee further intends that compliance agreements shall not be exempt from public disclosure under any provision of section 552 of Title 5 U.S.C. The Commissioner shall promptly provide a copy of such compliance agreements to any person who requests one.

The committee bill recognizes that, in certain limited situations, a recipient of title I funds may not be able to come into full compliance immediately upon entering into a compliance agreement. Therefore, section 186(c) of the Committee's rewritten title I adds to the Commissioner's existing withholding authority the discretion to suspend the initiation or continuation of a withholding action by entering into a compliance agreement with a State educational agency. Such an agreement would provide the basis for the Commissioner to commence or continue payments to a State against which the Commissioner has brought an enforcement proceeding for failure to comply with one or more of the requirements of Title I. It is anticipated that the Commissioner in most cases would enter into such an agreement only after he determines that the violations which led to the enforcement action have ceased.

The committee intends that, in the rare situation in which a compliance agreement would precede compliance, a State educational agency bear the heavy burden of demonstrating that immediate compliance is genuinely not feasible. Because the Commissioner, at the hearing on the issue, may have little independent information concerning a State educational agency's claim that immediate compliance is not feasible, the participation of parents of children eligible for title I programs from the State or local educational agency which is out of compliance, their representatives, and other parties, is contemplated to provide the Commissioner with additional information which may be relevant to this claim and to indicate how a compliance agreement would affect children eligible for title I programs. Where immediate compliance is found to be genuinely not feasible, a compliance agreement could permit funding to continue or resume when, by the terms of the agreement, the State educational agency will expeditiously take all steps reasonably necessary to correct the violation and the Commissioner is satisfied that those steps will result in full compliance within a time table set forth in the agreement. Although the language does not impose a maximum amount of time for compliance to be achieved, the agreement should be implemented within the minimum time necessary to achieve full compliance.

The terms and conditions that may be imposed under a compliance agreement may include any matters which the Commissioner deems necessary to ensure compliance, including revised accounting systems, access by Office of Education personnel to information, revised teacher assignments or construction plans, or other conditions related to compliance or to compensate for the violation.

A compliance agreement shall in no way be considered a waiver of the requirements of title I. The Commissioner is authorized to enter into compliance agreements for the sole purpose of insuring more effective enforcement of the requirements of this title. A compliance agreement will not avoid an audit determination for periods prior to the date of the agreement, even with respect to matters that are covered by the agreement. However, for any period during which a State or local educational agency is in compliance with the terms of such an agreement, that agency would not be subject to any other legal action (such as an audit determination) with respect to matters that are covered by the agreement.

The committee intends that if a compliance agreement has been entered into and the Commissioner subsequently finds, after reasonable notice and opportunity for a hearing, that there has been a failure to comply substantially with the compliance agreement, the Commissioner shall not make further payments under this title to the State (or in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Thus, if the Commissioner finds that a State educational agency has not complied with a compliance agreement, the Commissioner shall withhold payments under this title, or he shall withhold that portion of those payments which is affected by the noncompliance, until he is satisfied that there is no longer a failure to comply. The committee does not intend that another compliance agreement be entered into if the Commissioner, after notice and opportunity for a hearing, finds that a State educational agency has not complied with the terms of a compliance agreement. In such a case, the Committee intends that the Commissioner withhold payments under this title.

(4) *Policy Manual*

The NIE found that although the title I requirements contained in the statute and regulations are generally necessary, consistent, and flexible, these requirements were not sufficiently clear and specific to guide the affected audience—particularly administrators of the program—in the application of particular standards to day-to-day situations. Although NIE found that many applications to particular situations were discussed in program guidelines, handbooks and letters of interpretation, such interpretations typically have not been widely disseminated. The NIE report concludes that "* * * although OE has developed a precisely phrased body of interpretations which if assembled, summarized, and interrelated would resolve the overwhelming majority of difficult questions raised by states and districts. OE has failed to disseminate these interpretations widely." The NIE report also describes the potential effect on the quality of program administration resulting from insufficient clarity in the regulations and the existence of an inadequate system for disseminating its clarifications: "Since States, rather than the Federal government, have the responsibility for the day-to-day oversight of local title I programs, they often have to interpret Federal policies for local situations * * *.

Because of this additional step of developing and disseminating a legal framework to guide local behavior, the clarity of the Federal framework takes on added importance. A failure to comprehend the details of it may be compounded by the interpretations that States incorporate into their own directions to districts. The result may be either inaccurate or illegal state interpretations or state requirements that are "overly restrictive." The amendment requiring that OE develop and distribute a policy manual is an attempt to address such problems which NIE uncovered. The policy manual will increase the likelihood that title I requirements are interpreted by State educational agency officials, OE monitors and HEW auditors in a uniform and non-restrictive fashion.

The NIE report on administration referred to above also includes, in an appendix, recommendations made by one of its contractors, for improving the clarity of the Federal legal framework.

> OE should include, under each substantive requirement set forth in regulations published in the Federal Register, illustrative examples of its application to commonly occurring situations. This technique is commonly used by other agencies for clarifying complex requirements.
>
> A separate section entitled "interpretations" should be included in the regulations. This section should be organized by subject area, rather than by requirement. Suggested headings include: teacher aides, support services, pullout programs, in-class pro-

grams, desegregation, individualized instruction, inservice training, programs in open-space schools, etc. The resolution of the problems arising in these areas often involves interpretation of a number of regulations. This section should also include legal models illustrating the wide range of alternative program designs that are possible.

The committee wishes to express its support for these recommendations.

The committee bill requires that the Office of Education make the policy manual available to each parent advisory council, not just to the districtwide council. By expanding the provision, the committee bill assures that more parents will be able to become knowledgeable about the program. Unless the manual is available to parent advisory council members at the individual school level, much of its potential impact will be lost.

The committee bill also requires the Commissioner to report to the Congress on the enforcement of the provisions of title I. The evaluation report that the Congress currently receives on an annual basis does not include any useful information demonstrating the quality of administration and enforcement by the Office of Education. By requiring the Commissioner to submit an enforcement report in the first, third, and fifth years of the program after the date of enactment of the committee bill, the committee hopes that Congress will no longer have to wait years before inadequacies in administration are brought to the public attention. The public is insisting on greater accountability on the part of the Federal government, and deserves to get it. The enforcement report will provide the information that is basic to oversight of the Office of Education's administration of title I by summarizing the office's enforcement activities and making that information public.

The committee bill continues the existing law with regard to payments to local educational agencies. It does not authorize the use of title I funds for State administration of the program, as such funds are authorized under title V, in an attempt to simplify program administration and reduce the amount of paperwork necessary.

The committee bill reserves $400,000,000 for the purpose of carrying out the concentration provision authorized by section 117. In addition, from sums appropriated, it reserves not less than the amount made available for incentive grants for the preceding fiscal year for the purpose of making such grants.

PART F—GENERAL PROVISIONS

Part F retains the existing provisions regarding judicial review and extends the National Advisory Council on the Education of Disadvantaged Children.

This part also provides that the maximum payment to Puerto Rico would be 150 percent of its previous year's entitlement, and that any excess would be ratably distributed to school districts for the regular school district program. The reason for this amendment is discussed in an earlier section concerning treatment of Puerto Rico.

Part F also incorporates most of the definitions presently contained in Sec. 403 of Public Law 81-874. Since its inception in 1965 as an amendment to the impact aid legislation, title I of the Elementary and Secondary Education Act has been officially designated as title II of Public Law 81-874. To dispel any confusion that this may have created as the two acts developed distinct identities, the committee bill removes title I from Public Law 874 and incorporates the definitions from that act applicable to title I into title I itself.

SECTION 102.—BASIC SKILLS

Section 102 establishes a new title II of the Elementary and Secondary Education Act entitled "Basic Skills and Educational Proficiency."

The committee has adopted this new title because of its concern over the widespread belief that American students are no longer proficient in educational basics. Last fall the Subcommittee on Education, Arts, and Humanities held extensive hearings examining the quality of education of our Nation's students and exploring ways of improving competency in basic skills. What the committee learned from those hearings confirmed its earlier impression that there has been a decline in basic skills mastery by American students. Scores on the Scholastic Aptitude Test have dropped steadily over the past 14 years. Verbal scores on these tests have dropped an average of 49 points from 1963–1977. The mathematics test scores have dropped 32 points during this same period in time. Parents throughout this country are alarmed over what they perceive to be a decline in educational proficiency. A Gallup poll taken in the fall of 1977 reported that 83 percent of the population favors a back-to-basics movement, and other national surveys indicate that over 65 percent of American parents do not believe that their children are receiving adequate instruction in basic skills.

As Secretary Joseph A. Califano, Jr. said in his testimony before the Subcommittee on Education, Arts, and Humanities on March 8, 1978:

> Given the public concern about basic skills achievement, it is essential that the Federal Government have a broadly based authority to help States and localities develop improved ways of raising achievement not only in reading, but also in mathematics, and written and oral communication.

Title II provides this authority. It authorizes the Secretary of Health, Education, and Welfare to make grants to or contracts with states and local educational agencies to develop the most effective methods of improving educational achievement. While authorizing the kinds of activities permitted in already existing programs—such as the Right to Read program—this new title goes considerably beyond that in authorizing a broad range of efforts—such as programs aimed at enlisting the support of parents in instructional programs for their children and programs aimed at developing technology which has the potential to contribute to instruction in the basic skills. The committee believes the problem of improving basic skills achievement is a critical one facing American education, and it believes this new title will be a major step in combatting that problem.

The committee wishes to emphasize that grants awarded and contracts entered into under this title are to be demonstration in nature. It is hoped that those programs of proven merit will subsequently be replicated in other school districts and become an integral part of our total educational system.

The committee also wishes to emphasize that in repealing the title VII reading authority, and adopting the basic skills authority under this new title II, the committee does not intend that those programs in operation under the old authority be summarily terminated. Rather, the committee intended that those reading programs of high quality be broadened to include mathematics and oral and written communication.

The committee notes that the present program for distribution of low-cost books has been successfully operated on the basis of a sole source contract. This contract was approved under the regular administrative procedures of the Office of Education, which included a careful examination of all potential vendors before awarding a contract on a sole source basis. The committee intends that the Commissioner shall continue to follow these administrative procedures which have been developed and successfully implemented over several years to assure proper contract administration.

The committee expects that a periodic review be made at appropriate intervals of the determination of a sole source contract, and based on such determination that future contracts be let on either a sole source or competitive basis.

Part B of the new title II establishes a program in educational proficiency standards. This will be a program of grants to implement educational proficiency standards and of technical assistance to develop achievement tests. The issues of standards and tests are highly charged and generate a great deal of discussion in education circles throughout the country.

Minimium competency testing—assessing the extent to which students have mastered the basic academic skills needed in our society—has become a prominent issue in education today. Declines in standardized test scores, findings of illiteracy among high school graduates, and recent suits against school systems for "educational malpractice" have all led some student, parents, and the general public to question the value of a high school diploma.

The National Assessment of Educational Progress, for instance, found that 13 percent of 17-year olds are functionally illiterate and that writing skills of the same age group declined in quality between 1970 and 1974. Average scores on the SAT's and other standardized tests have been steadily declining for over a decade.

Testimony before the Committee revealed that colleges and prospective employers are becoming concerned about the poor skills of some recent high school graduates. One university reported that 25 percent of its incoming freshmen must take remedial courses in basic subjects in order to prepare them for college-level work. The president of another university who also teaches a course testified that his students are woefully behind their predecessors of ten years ago in their ability to spell, use proper grammar, and express themselves clearly in writing. Similarly, the Navy is having difficulty finding recruits who read well enough to do their jobs and is requiring many recruits to enroll in remedial courses to raise their reading ability to the sixth grade level.

In response to such alarming trends as these, and out of a desire to make a high school diploma mean more than merely being a record of attendance, a number of States and local districts have turned to minimum competency, or educational proficiency testing. Under such a system, students are tested at various points in their educational careers to determine whether they have mastered some basic competencies appropriate to their grade level. At the heart of most of these programs is remediation for those who do not pass the required minimum level of competency.

At last count five States had operational competency-based testing and 29 more were involved in some form of performance-based educational activities in the basic skills. In some cases, adoption of such standards has uncovered an alarming rate of deficiencies in the basic skills. For example, Florida instituted a competency-based testing program this school year and found that while only 11 percent of the 11th graders tested scored below passing in reading and writing skills, 36 percent failed the mathematics portion.

The Committee feels all of these recent developments should be of concern to the Federal government. The Federal government spends billions of dollars every year for programs to provide special services to various types of childen, to improve access to educational opportunity, and to help districts explore new initiatives in education. If the basic educational program is not providing some of the nation's school children with the skills necessary to survive in society, then this should be made known and the system adjusted accordingly.

However, the Committee also feels that the proper role of the Federal government in this area is a very limited one. States and local school districts have the basic responsibility to provide education, and the Federal role is merely one of focusing attention on certain problems and neglected populations.

In this vein, the Committee has proposed a new program of aid to the States to assist them in developing minimum competency standards. But the intention is clear: the Federal Government is not to specify certain minimum standards which the States must use, nor is the Federal government to require that certain tests must be used, nor is the receipt of Federal aid (except for this assistance) to be conditioned on adopting minimum standards of competency. The Federal role is merely one of providing financial assistance to the States to encourage their own efforts in this area.

The committee bill also authorizes the Commissioner of Education to provide technical assistance to State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to enable State and local educational agencies to develop their capacity to conduct programs for testing the basic skills achievement of children in their schools.

The committee wishes to point out the programs under part A of this new title II are to be administered by the Secretary of Health, Education, and Welfare, whereas programs under part B are to be administered by the Commissioner of Education.

SECTION 103.—SPECIAL PROJECTS

Section 103 of the Committee bill creates a new title III to the Elementary and Secondary Education Act and is so doing constitutes a comprehensive recasting of the Special Projects Act established in the Education Amendments of 1974. The new Special Projects title of the Elementary and Secondary Education Act emphasizes both national education priorities and special or unique education needs that are of particular concern to the committee.

Section 103 contains three existing programs that are carried over from the old Special Projects Act: Metric Education, Arts in Education, and Consumer Education. One program, environmental education, currently operates outside the framework of the Special Projects Act, but it is incorporated as an integral part of section 103. There are six entirely new programs: law-related education, correction education, youth employment, population education, health education, and biomedical sciences education.

The committee recognizes that the programs provided for in section 103 do not constitute the entire range of education priorities and special education needs that may merit Federal assistance. Accordingly, the committee in part A establishes a discretionary fund to enable the Commissioner of Education to undertake projects through grants or contracts that are consistent with the general purpose of section 103 but may not be covered in the 10 programs delineated in this section of the committee bill.

The Commissioner is also authorized to make grants in an amount not to exceed $25,000 to teachers, administrators, other educational personnel, and parent organizations. This provision is intended to insure that those who work with students on a daily basis—in-school educators and parents—are given the opportunity to participate in the formulation and implementation of programs to help solve our nation's education problems.

The committee further believes that section 103 is intended to promote Special projects not only through the immediate benefits of funded projects but also by stimulating through such projects the use of other Office of Education funds for the 10 programs in this section of the committee bill. For example, the programs in section 103 should fund the development or evaluation of exemplary projects to prepare them for validation and dissemination. The projects might then be supported as developer-demonstrator projects with separate funds appropriated for the National Diffusion Network.

Part B of section 103.—Metric education

The United States remains the only industrialized nation in the world not to use the metric system on a nationwide basis. In the near future, however, our nation will make a complete changeover to the metric system. While valuable Metric Education programs have been initiated over the past 4 years, the committee believes there is a definite need for an intensified metric education effort if we are a nation are to accomplish the transition to the metric system without imposing an undue burden on our society.

The committee is concerned by the fact that there are states in which no metric education program has ever existed. The increase in authorizations is intended to reflect the committee's belief that metric education should be an essential component in every student's education.

Part C of section 103.—Arts in education

Revision and extension of Arts in Education demonstrates the committee's belief that knowledge in and of the arts is an integral part of a young person's education.

The committee recognizes the important part which the Arts in Education program plays with respect to the John F. Kennedy Center for the Performing Arts and the National Committee, Arts for the Handicapped, but it does not believe that such activities under part C of this section of the committee bill should be mandated by law. To specify that activities in Arts in Education may include arrangements with these two organizations is certainly sufficient. To require that either one or both organizations receive assistance under this program would, in the committee's view, be most unwise. The committee anticipates that additional funds may be available under the increased funding authorization for the arts in education program authorized under part C. Such funds can expand the Federal activity to additional programs carried out by agencies, organizations, and institutions not previously supported, as well as maintain support of successful programs previously administered with funds under section 409 of the Special Projects Act. The committee further believes the activities carried out under part C may also include arrangements with various public and private cultural organizations, including museums, libraries, and theaters.

Part D of section 103.—Consumer education

Programs that enable young persons and adults to function within our society with a greater knowledge and awareness of their role and rights as consumers are crucial. The committee is concerned that the scope of consumer education not be limited by too narrow or too confining a definition of consumer education. Such action could exclude innovative consumer education programs in a vast range of areas where Federal assistance may not now exist, but where such assistance could play a valuable role in stimulating, broadening and deepening consumer knowledge. The legal rights of individuals as consumers and the nutritional value of various food sources, for instance, are but two examples of the wide range of activities that the committee believes should fall within the scope of consumer education. The committee further believes that consumer education as a national education priority must not be diminished, and that interest in and commitment to this program must not wane.

Part E of section 103.—Youth employment

One of the more serious problems confronting our Nation is the very high rate of unemployment among our young people, particularly among minority groups in our large metropolitan areas. The committee believes that formulation and implementation of programs under part E of this section of the committee could play an important part not only in helping reverse this situation but also in generally preparing children to take their place as working members of society.

The committee is particularly interested in seeing the development of programs that enhance job opportunities by coordinating education and youth employment activities, that promote awarding academic credit for skills gained through a work experience, and that provide technical assistance and information to ease the transition from school to work.

Part F of section 103.—Law-related education

The results of the citizenship/social studies survey completed by the National Assessment of Educational Progress and released in January 1978 contained information of considerable concern to the committee. According to the study, during the first half of this decade there was a decline in U.S. teenagers' knowledge of the structure and function of government, in their understanding of and willingness to participate in the political process, and in their recognizing and valuing constitutional rights.

In light of this situation the committee believes there is a need for programs that promote an understanding of how our system of law and legal institutions work.

The committee is also concerned that awareness of, knowledge about, and skills in practical law or law that may be useful in one's daily life is not as comprehensive or widespread as it should be in our society. This includes areas such as consumer law, housing law, family law and environmental law. Accordingly, the committee believes that there is also a need for programs that promote an understanding of practical law.

The committee is aware of the fact that there are some excellent law-related education programs already in existence. With small and fragmented assistance from various Federal agencies, there are today some 500 law-related programs in our elementary and secondary schools. In addition, last year there were 65 teacher institutes in law-related education, and 1,500 separate items of law-related materials were available for distribution. Despite these programs, only about 10 percent of our Nation's educators and students have been exposed to meaningful instruction in law-related education.

The committee believes that part F of section 103 of the committee bill will accelerate and expand law-related education in the United States by providing support for new and ongoing programs, for wider dissemination of existing materials and the development and dissemination of new materials, for the training of educators and administrative and counsellng personnel in law-related education, for research, evaluation and improvement of law-related materials and methods, for the involvement of groups and organizations such as lawyers, law schools, law students, and law enforcement personnel in law-related education activities, for youth participation programs including internships, work-study programs, field trips, workshops and seminars, and for such other activities as are consistent with the general purposes of this part of section 103.

Part G of section 103.—Environmental education

Revision and extension of environmental education includes one change which the committee believes to be of major importance, namely the specific mention of the relationship of energy to the total human environment. That relationship is a critical one, and will remain so in the years ahead. The committee's hope is that environmental education programs and activities will recognize this relationship as one upon which the survival of mankind may well be determined.

The committee is also hopeful that environmental education activities encompass programs and projects associated not only with ecology and environmental quality but also with earth sciences and basic concepts of the physical earth.

Part H of section 103.—Health education

In part H the committee authorizes a program to establish demonstration health education projects that may in turn serve as models for elementary and secondary schools around the country.

The Federal Government has made a major commitment toward improving the well-being of its citizens through increased Federal responsibility for financing health care services, improving medical technology, and training medical personnel. An estimated $45.1 billion is expected to be spent in 1979 on financing and providing health care services alone.

The committee believes additional emphasis must be placed on preventive health education in our public schools.

Changes in personal lifestyle and a better understanding of good health principles are the key to improvements in the health of individuals and prevention of disease and illness.

It is the committee's hope that the programs under part H will encourage a greater interest in providing preventive health education in our elementary and secondary schools.

Part I of section 103.—Correction education

There are various sources of funds for correction education within the Federal Government. None of those programs, however, is devoted exclusively to the development and implementation of demonstration projects involving new and innovative techniques and methods in the area of correction education. The committee believes that Part I can play a valuable role in funding such educational programs. The Commissioner should examine in particular those programs of a similar nature funded under the Comprehensive Employment and Training Act and the possibilities for coordination between the separate programs.

Part J of section 103.—Biomedical sciences

Hundreds of thousands of persons in this country suffer from inadequate health care because they live in areas with disparingly few or no accessible physicans. Rural areas with populations under 10,000 possess an average of one doctor for every 2,512 individuals, compared with one for every 511 individuals in metropolitan areas. Yet in some central areas of large cities, there are no doctors for literally thousands of persons. One area of New York City with 22,000 residents is served by a single physician.

The most obvious strategy for improving this situation is to train large numbers of health professionals who would be most likely to practice in medically underserved areas. Testimony before the Committee emphasized, and various studies confirm, that people most likely to go into practice in these areas are minorities, persons from low-income families, and persons who come from these areas themselves.

However, all the above types of persons are woefully underrepresented in the biomedical professions. For example, the latest study of the American Medical Association shows that all minorities constitute only 8.2 percent of medical school students, far below their proportions in the general population. Although progress was made in recruiting minority students during the 1960's these proportions have stagnated in the past few years due to court challenges to preferential admissions policies and the intense competition for places in medical school. Our studies have shown that the majority of medical students come from families that earn over $15,000 per year, and that those from low-income families are severely scarce.

This pattern of underrepresentation stems from several social, economic, and academic barriers. Most importantly, students from disadvantaged background, even though they may be bright, are usually not adequately prepared academically to qualify for admissions through standardized tests, a strong math and science background and other educational criteria. Too often, these students are not encouraged to take advanced courses in mathematics and science. In other cases, the schools they attend may be educationally inferior or may not offer such courses at all. One black medical student from a rural area testified that although he had graduated from high school with a 3.96 grade point average, his exposure to the types of materials required for a pre-medical course was minimal.

Bright disadvantaged students are also stymied from pursuing medical careers by a lack of proper counseling and encouragement and a lack of awareness of existing opportunities. Finally, the high cost of a medical education often prohibits some talented young people from even considering such an option. A National Institute of Health study showed that the cost of training was always at the top of the list of factors determining career choices for black college graduates.

Once such students are admitted to biomedical training programs, other problems emerge to decrease their chances of successfully completing the program. Often disadvantaged students are overwhelmed by the keenly competitive environment, the amount of discipline required, and technically-advanced course content. For example, black students at biomedical schools have a repeat rate of 14.4 percent compared with a repeat rate of 1.2 percent for non-minority students.

It is important to note that most of these key factors affecting a student's chances for a biomedical career are determined before he or she enters high school. During these years, a student decides whether or not to take advanced mathematics and science courses and develops necessary study habits.

The committee concludes that only by implementing effective high school programs can the pool of disadvantaged students applying to medical school be increased and the problem of underrepresentation of disadvantaged groups in the medical profession be addressed.

The committee heard testimony regarding a successful program along these lines, the Premedical Research and Education Program in New York City, which selects promising minority students from area high schools and exposes them to intensive college preparatory courses, counseling, and practical work in health institutions. According to the programs' directors, these experiences vastly improve the students' chances for admission to and success in medical school. A preliminary analysis of the 300 some graduates of the PREP summer program indicates that of the 42 percent who applied to medical schools, 77 percent were admitted. This is almost double the average acceptance rate of black applicants.

Therefore, the committee proposes to establish a new Federal program patterned on the PREP program in New York. Grants would be available to colleges and universities if they would agree to establish after-school hours courses for economically-disadvantaged youth and to offer them training opportunities in biomedically-related areas in the summer. These institutions of higher education would have to work with high schools enrolling such students in order to give them a unified educational program. Private school children are also explicitly made eligible to participate in the programs funded under the Act.

A most important aspect of this program would be the provision of a multiyear program which integrates specific subject matter training in mathematics and the sciences with summer work and study experiences and exposure to professionals in the variety of biomedical related fields who are from minority or disadvantaged backgrounds. Thus, students receive continued assistance, instruction and support not for a single course or semester, but over a period of years long enough to develop both the skills and the confidence needed for eventual success in these professions. Insofar as program funding will allow, special attention should be given to establishing programs in both urban and rural areas, and to achieve a balance of such activities in the various geographical areas of the Nation.

Part K of section 103.—Population education

Support for population education follows recommendations by the Federal Interagency Committee on Education in 1976, the President's Commission on Population and the American Future in 1972, and the House Select Committee on Population this year.

The committee notes that there has been far more population education activity in the developing world than in the United States and that surveys of American 13 to 17 year-olds and young adults indicated that they ranked over-population second among the problems of our cities and the problems of the world. Recently several urban school systems, with Baltimore in the lead, have institutionalized population education at various grade levels. Interest is developing across the Nation, but there is insufficient knowledge about the subject and how to infuse it into the existing curriculum.

Population education means the educational process which assists individuals to: (1) understand demographic trends and the probable causes of population change; (2) learn the consequences for themselves, their communities, the Nation and the world; (3) define for themselves the nature of the problems related to population processes, population size and distribution and population composition; (4) and assess the means by which society as a whole and they as individuals may be able to respond to and influence population trends to enhance the quality of life. In short, population education sensitizes individuals to population conditions, the problems which population change may magnify, and the possible solutions to these problems. The focus is interdisciplinary, including demography, sociology, history, biology and geography. Key concepts include fertility, mortality, migration, and age distribution. Population education is not sex education.

The emphasis of the grants and contracts program authorized is to help incorporate the teaching of population in existing courses by preservice and inservice training programs for teachers; development and dissemination of teacher and student materials; research support to develop curriculum content and to evaluate programs and materials; and demonstration projects to test and evaluate materials.

A clearinghouse on population education is to be established within the National Institute of Education using funds available under Part K, for the purpose of evaluating, cataloguing and disseminating materials on population. Otherwise, the program is to be administered by the Office of Education.

The following programs are repealed effective September 30, 1979: (1) Section 402(b) of the Education Amendments of 1974 pertaining to the Commissioner's discretionary funds; (2) Section 403 of the Education Amendments of 1974 pertaining to Education for the Use of the Metric System of Measurement; (3) Section 404 of the Education Amendments of 1974 pertaining to Gifted and Talented Children; (4) Section 405 of the Education Amendments of 1974 pertaining to Community Schools; (5) Sections 406 (a), (b), (d), (e), (f), and (h) of the Education Amendments of 1974 pertaining to certain parts of Career Education; (6) Section 811 of the Elementary and Secondary Education Act of 1965 pertaining to Consumers' Education Programs; (7) Section 408 of the Education Amendments of 1974 pertaining to Women's Educational Equity; (8) Section 409 of the Education Amendments of 1974 pertaining to Elementary and Secondary School Education in the Arts; and the Special Projects Act.

The Committee, however, wants to stress that it has not repealed all provisions of Section 406 of the Education Amendments of 1974.

On December 13, 1977, the Career Education Incentive Act (Public Law 95-207) was signed into law. That act authorizes funds over 5 years for implementation of career education at the elementary and secondary levels, and provides for demonstration grants at the postsecondary level. For administration of these programs, that Act relies upon the office of Career Education, established under Section 406(c), and the National Advisory Council for Career Education, established under Section 406(g).

Since the Career Education Incentive Act supercedes the functions established under Section 406, the committee bill repeals that section, effective September 30, 1979, as noted above, with the exception of subsections (c) and (g) which are retained in order to administer the new Act. Further, consistent with this, the committee bill amends subsection (c) to provide that the purpose of the Office of Career Education shall be to carry out the Career Education Incentive Act, effective September 30, 1978.

The committee also emphasizes that the programs and activities under section 103 must take into account the needs of and provide an opportunity for participation to nonpublic school children on a basis comparable to that provided for public school children.

TITLE IV—LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION, AND SUPPORT

SECTION 104—REVISION OF TITLE IV

Section 104 of the committee bill revises the existing title IV of the Elementary and Secondary Education Act, and adds two additional parts to that title. In effect, the committee bill authorizes a new title IV of the Elementary and Secondary Education Act, with part B of the new title IV being composed of programs for instructional material and school library resources; part C being composed of programs for the improvement of local educational practices; part D being composed of programs for guidance, counseling, and testing; and part E being composed of a new program for the education of gifted and talented children. Part A of this new title IV is composed of general provisions which are applicable to all of the other parts of the title.

The existing title IV of the Elementary and Secondary Education Act as amended by Public Law 93-380 consolidated certain formerly categorical education programs into two parts: Library and Learning Resources (part B) and Educational Innovation and Support (part C).

Part B includes the old categorical programs for library and instructional materials under ESEA title II; the guidance, counseling and testing portions of ESEA title III; and title III of the National Defense Education Act for strengthening instruction in certain academic subjects.

Part C is composed of the following formerly categorical programs: supplementary education centers under ESEA title III; ESEA title V for strengthening State departments of education; and dropout prevention programs and demonstration projects to improve school nutrition and health services for low-income children under ESEA title VIII.

In fiscal year 1976, the first year of consolidation, 50 percent of the funds appropriated were to be used for parts B and C, while the remaining 50 percent was used to continue the categorical programs. The legislation for each of the old categorical programs has been continued so that in the event certain appropriation conditions were not met to trigger the consolidation, funding authority would revert back to the separate programs.

This has not occurred since the inception of the consolidation. Fiscal year 1978 appropriations for title IV were $167.6 milllion for part B and $197.4 million for part C.

The part B program operates on the basis of annual program plans from each State, approved by the U.S. Office of Education. Funds are distributed by the State to local education agencies according to the enrollments in public and nonpublic schools within the school districts of these agencies. In addition, substantial funds must be provided to: (a) local education agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding payments made under title I of the act) is no greater than the average per pupil expenditure in the State and (b) local education agencies which have the greatest number or percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is not the dominant language. States designated types of high-cost children cited in the statute, and added other types such as migrants, children in small schools, and minorities.

Under part B, each local education agency is given complete discretion in determining how the funds it receives from appropriations will be divided among the various programs for public and private school children. In fiscal year 1976, funds under part B were expended among the various program purposes as follows:

AMOUNT OF FUNDS EXPENDED FROM TITLE IV, PART B, FISCAL YEAR 1976, BY PURPOSE

	Public	Private	Total	Percent
School library resources and other instructional materials, textbooks	$23,180,219	$2,214,081	$25,394,300	54.1
Equipment and minor remodeling	15,230,330	632,815	15,863,145	33.7
Testing, counseling, and guidance	5,416,079	295,158	5,711,237	12.2
Total	43,826,628	3,142,054	46,968,682	100.0

From the total amount available to title IV, part C for allotment in any fiscal year, the U.S. Commissioner of Education allots to each State an amount proportionate to the number of children aged 5–17 in the State, as compared with the total number of children in all of the States. The term "State" as used here refers to the several States in the Union, the District of Columbia, and the Commonwealth of Puerto Rico.

Direct grants are awarded to the 50 States, the District of Columbia, American Samoa, Guam, Puerto Rico, the Virgin Islands, the Trust Territory of the Pacific Islands, and to the Department of Interior for children and teachers in elementary and secondary schools operated for Indian children by the Bureau of Indian Affairs. Under Public Law 93–380, children in the overseas dependents schools operated by the Department of Defense are eligible, but the Department of Defense is not participating during program years 1976 and 1977.

Not less than 1 percent of the amount available under title IV, part C may be reserved for Guam, American Samoa, the Virgin

Islands, and the Trust Territory of the Pacific Islands, for schools operated for Indian children by the Department of Interior, and for children in the overseas dependents schools operated by the Department of Defense.

State education agencies, the Department of Interior, and other jurisdictions are required to submit an annual program plan which, when approved by the U.S. Commissioner of Education, serves as the agreement between the States or other jurisdictions or Departments and the USOE.

Under part C, the allotment made to States is subdivided into three major categories. There is first the set-aside for strengthening State and local education agencies which equals the larger of either (a) an amount not to exceed 15 percent of the total part C allotment or (b) the amount available to that State for strengthening purposes in fiscal year 1973. After this strengthening portion is subtracted from the part C allotment, an administrative component of 5 percent is provided.

The remaining funds are to be used for purposes of ESEA IV-C section 431(a) (1), (2), (4) (Supplementary Centers and Services and Exemplary Programs, Nutrition and Health, Dropout Prevention). Not less than 15 percent of the part C allocation, less the funds to be used for strengthening State and local education agencies, must be used for programs or projects for the education of children with specific learning disabilities and handicapped children. All of the funds (except those for strengthening the SEA) are available to LEA's through the State agencies on a competitive basis in accordance with priorities established by the States.

Both IV-B and IV-C are extremely flexible regarding the types of programs to be funded. School districts have complete discretion in determining how their part B funds will be divided among the various programs. Other than the few restrictions placed on part C funds, innovative projects funded under that part cover a wide latitude of curricular areas, from basic skills to human relations, and with wide range of target populations, from bilingual to gifted and talented.

Although one of the basic purposes of consolidating these programs in 1974 was to bring about some simplification in the administration of Federal education programs, the actual task of combining several diverse authorities into a single, smoothly running administrative mechanism created difficulties at the Federal, State and local level. In fiscal year 1976, when this transition was being effected, the administrative workload actually increased at all levels. Consolidation meant that decisions had to be made about which personnel would be brought together, what priorities would be set, and how funds would be allotted.

Now that the program is in its second year of full consolidation, Title IV appears to be operating fairly successfully and resulting in administrative and programmatic achievements. Reductions in paperwork have occurred at all levels. According to an OE program official, the 4,000 data items previously requested for the categorical programs have been pared down to 293 for the consolidation. The number of staff at the Federal level has been reduced by 30 percent. At the State level, one annual program report now replaces six previous State plans and applications. Local people also testified that with the exception of the single application form, which is discussed later, administration has been simplified and the amount of preparation time reduced.

The consolidated programs have also demonstrated success in improving educational services to public and private school children. In fiscal year 1977 Part B served school districts with an estimated enrollment of over 52 million and provided an average contribution of $1.70 per child. The Office of Education estimates that of the fiscal year 1976 consolidated funds, 54.1 percent went toward library and instructional materials, 33.7 percent went toward equipment and minor remodeling, and 12.2 percent went toward guidance, counseling and testing. For fiscal year 1977, OE staff stated that the proportion for guidance and counseling increased.

Part B funds have benefitted a number of children with greater than average costs to educate, such as low-income, limited English-speaking, migrant, and low-achieving children. In some States, as much as $20 per pupil are going to these children. But, overall, OE estimates that only about one-fourth the funds allotted under Part B are directed to 6,000 school districts with significant numbers of "high cost" children. About 10 percent of the Part B funds served 2,243 school districts with high tax efforts. In addition, 26 States are directing substantial amounts of Part B funds to children enrolled in schools in sparsely-populated areas. Part B funds have helped reduce the cultural and intellectual isolation of many of these children. For example, a one-teacher rural school in North Dakota received over $22 per pupil for purchase of books and instructional media.

Looking at achievements in the individual areas under part B, the American Library Association estimates that since 1964, the number of volumes in school media centers has increased by 172 percent. The number of students served by these centers has increased by 50 percent. According to the Association of Media Producers, before ESEA was enacted, almost 70 percent of the nation's elementary schools had no library/media centers. In 1975, this figure had decreased to 20 percent.

In the area of guidance and counseling, OE noted that part B is enabling school districts to employ more local guidance staff, although statistics on increases are not available. A witness from West Virginia testified that Title IV has enabled that State to develop guidance and counseling models at all levels and institute an in-service professional development for counselors.

Although only partial data is available from 23 States on part C participation, these States report that over 1.2 million children participated in part C projects in fiscal year 1976. There is evidence that States are not using the maximum amount for State agency activities so that more funds are available for local programs. The 24 States submitting data had made 624 grants for local projects, and over a third of these went to small districts with enrollments under 5,000.

The curricular areas most frequently funded by part C are basic skills, arts and music, career education, environmental education, and science. Other types of projects most frequently funded deal with guidance and counseling, staff-training, alternative instructional methods, and regional service centers. Target populations most frequently addressed are dropouts, handicapped, gifted and talented, preschool and bilingual. Thirty-six State educational agencies report supporting about 972 full-time equivalent personnel with their part C "strengthening" funds.

Several witnesses testified that part C innovative programs have produced new techniques for improving instruction. An evaluation by the Rand Corporation of Federal funds for innovation found that these funds had a major effect in stimulating local districts to undertake projects that were generally consistent with categorical guidelines. However, factors at the local level resulted in successful implementation of only some of these projects and long-run continuation of even fewer.

One State Title IV-C director testified that in his State, 1,337 schools are using Title IV-C validated demonstration projects and that the program has impacted on 85 percent of the school districts in the State. This director added that 90 percent of the innovative projects funded are being continued by the districts. Another State superintendent testified that 345 IV-C projects are currently operating in his State, and that 295 more districts are planning to replicate these projects.

As school operating costs rise and local districts find it difficult to raise the revenues necessary for even a basic educational program, Federal funds for library and learning resources and educational innovation are becoming increasingly important. For example, according to the Association of Media Producers school districts spend only about 1.2 percent of their budgets on instructional materials, even though materials structure about 95 percent of classroom time and 90 percent of homework time. The American Library Association estimates that the present volume of school library materials fill only half the need for these materials. Other witnesses testified that part C enabled districts to initiate innovative projects that would not have been undertaken without Federal seed money.

In summary, witnesses consistently noted that despite difficulties in implementing the 1975 amendments, the consolidated programs are beginning to show some accomplishments and should be continued. Witnesses generally agreed that a return to the old categorical programs was not advisable; however, within the consolidated structure, certain improvements are necessary to overcome persistent problems.

The title IV-B consolidation enacted in 1974 represented a marriage of programs that could rightly be termed "things" oriented—such as library resources and instructional materials—with programs that could be termed "people" oriented—such as guidance, counseling and testing. This marriage has caused a great deal of competition in some local districts between two areas which the Committee feels are both of high priority. The IV-B consolidation has forced local administrators to make decisions at the expense of one or the other activities. Most of the witnesses who appeared before the Subcommittee on Education, Arts, and Humanities concurred that everyone would be better off if the resources and the personnel activities were not forced to compete with each other for funding.

Consequently, the committee has decided that it is best to remove guidance, counseling, and testing from the existing title IV-B. In order to achieve this, a separate program—a new IV-D—is proposed to fund all types of activities involving guidance, counseling and testing. This program will combine not only the payment of counselors' salaries from IV–B, but also the payments for State and local guidance and counseling activities which the Committee believes are consistent with the authorized activities of Section 341 of the Education Amendments of 1976.

Subpart 1 of this new title IV–D includes the guidance, counseling, and testing services of existing IV–B. Separate maintenance of effort requirements are included for those part B activities shifted into the new part D. Subpart 2 of new IV–D includes guidance and counseling activities which are identical with the activities authorized in section 341 of the Education Amendments of 1976. Under subpart 2 the Commissioner is authorized to make grants assisting a variety of agencies in conducting training to improve the professional guidance and counseling qualifications of teachers and counselors of both public and nonpublic elementary and secondary schools.

Allocations under subpart 1 of the new IV–D shall be made to each State based on the proportionate comparison of that State's children aged 5–17 to the total number of children of such age in all the States. Allocations under subpart 2 of the new IV–D shall be made on a competitive basis at the discretion of the United States Commissioner of Education.

The Committee has included a "trigger" on the appropriations for this new program. This means that unless the appropriation for this program equals at least $18 million for the first fiscal year in which subpart 1 is in effect, and at least the amount provided in the previous year for subsequent years, then this new program does not go into effect. In that case, the Commissioner is authorized to carry out programs under Part A of the National Defense Education Act of 1958 as that Act was in effect for fiscal year 1971.

The Committee believes that the remaining programs in existing title IV–B—programs relating to school library resources and instructional material and equipment—should be continued. The committee believes that these programs have been extremely successful, and it is the committee's expectation that they will be equally successful, if not more so, under a new part that will be devoted exclusively to the purposes of these programs. This new part B of title IV will consist of programs regarding instructional materials and school library resources.

The committee has also amended the existing IV–C programs to create a new title IV–C for programs directed at improving local educational practices. The existing title IV–C provides support to programs aimed at strengthening state educational agencies, and sets aside a percentage of funds to enable the State to administer title IV programs. Since the new title V of this legislation anticipates the consolidation of most state administrative duties and responsibilities in one title, those provisions in the existing IV–C relating to State administration have been removed from the new IV–C, thus leaving this new program as essentially one strengthening and improving the practices of local educational agencies.

Part A of the existing title IV contains general provisions that apply to all of the title IV programs. The committee bill continues a similar part A. The committee, however, wishes to stress two major components of this new part A.

The present law requires districts to submit one application to the State educational agency for funds under both Parts B and C. Almost uniformly, witnesses felt this requirement causes confusion, frustration and actually results in more paperwork for some districts.

The major problem with this requirement stems from the fact that Part B funds are distributed on the basis of a formula, while Part C funds are granted through a state-wide competition involving a detailed application review process. According to several witnesses, Part B requires only a few pages of information and therefore an application takes far less time to complete, whereas Part C requirements involve much more detail. Consequently, the Part B approval and funding process must wait until Part C application data is completed and received. In addition, a district must compute maintenance of effort differently for Part B than for Part C. Finally, a district can apply for more than one Part C grant, while districts are eligible for only one Part B grant.

Therefore, the Committee has decided to delete this requirement for a single application for all of Title IV funding, and instead to permit the filing of separate applications. The original amendment was intended to cut down on unnecessary paperwork; but unfortunately, it seems that more problems were created than solved.

The committee also wants to point out that local educational agencies applying for funds under the new part B and subpart 1 of the new part D shall not be required to submit applications more than once every 3 years.

The second major factor which the committee wishes to stress in the participation of private school children in the title IV programs. One of the original intentions of the old title II program was to benefit private school children in a constitutional way; and traditionally, private school children have had strong participation in the Title II program. Since the consolidation, the Office of Education estimates that the percentage of funds expended for Part B benefits to private school children—7 percent of the total Part B allocation—corresponds roughly with the percentage of eligible private school children in the school population. In addition, OE testified that private school children participate in all the Part B components.

The U.S. Catholic Conference testified that parochial school officials rate this program as the most equitable and the fairest in providing services and benefits to non-public school children. The Conference did note, however, that a problem arises with the Title IV–B legislation where a school district is unable, ineligible, or unwilling to participate; the private schools within that district's boundaries are automatically denied benefits.

Regarding Title IV–C, the U.S. Catholic Conference testified that participation of private school children in Title IV–C was seriously deficient, with parochial schools participating in only 50 percent of Part C projects. The Catholic Conference pointed out that this was due in part to the competitive grant process, whereby public educators plan an innovative program to meet the needs of the public school children, then write the private school children in for participation, even though the project may be ill-suited to meet their needs.

The Office of Education also found that while 2.5 percent of public school children participate in Title IV–C funded projects, only 1.6 percent of private school children do. These officials asserted that many IV–C grantees do not have private schools within their boundaries and that some private schools may be ineligible because of discriminatory practices; but, nonetheless, the Committee believes that the degree of participation of private school children under IV–C is not adequate.

The Committee has, therefore, amended section 406, the provision requiring the participation of children enrolled in private schools, to add a new paragraph (a) (2). The intent of this new paragraph is to provide authority for State educational agencies to make the necessary arrangements for the provision of services to private school children in a situation where a local education agency does not participate in the Title IV program.

The committee further adopted language providing for an expedited procedure for implementing the Commissioner's by-pass authority. In taking this action, the committee recognizes that there have been lengthy and unnecessary delays in the exercise of the Commissioner's by-pass authority. These delays have adversely affected the participation of nonpublic school children in title IV programs.

It is the intent of the Committee that the Commissioner exercises the by-pass authority extended from current law in a manner which will assure a prompt resolution of complaints from representatives of nonpublic school children that such children are not participating in title IV programs. In this respect the committee expects the Commissioner to adopt and publicize systematic procedures for the prompt processing of complaints.

It is hoped that these provisions will help to resolve the problems mentioned above with both Parts B and C.

The committee wants to emphasize that the provisions of Sec. 406 must be applied to all of the title IV programs. The Committee bill requires that a state educational agency shall not approve the application of a local education agency for assistance under this part unless the state educational agency determines that the requirements of section 406 have been met, including a determination that in designing the proposal for which an application is made, the needs of children in nonprofit, private schools have been taken into account through consultation with private school officials. The committee wishes to assure that proper consultation takes place prior to the submission of proposals. The Committee intends that children enrolled in private schools shall participate on an equitable basis with public school children in all title IV programs.

The committee bill also establishes a new Part E.

Part E of title IV for gifted and talented children is based upon S. 2792 (originally S. 2749 and renumbered due to a printing error), introduced on March 15. It will significantly expand and improve the existing Federal role in the education of our gifted and talented children. By utilizing the simple and efficient structure of ESEA title IV, part E will provide the proper scope and direction to the education of these children. Prior to adopting this major expansion of the gifted and talented program, the committee examined the needs and the results of the programs already in existance.

THE NEED FOR PROGRAMS FOR THE GIFTED AND TALENTED

Until recently, America's gifted and talented children were among our most neglected minorities. With the advent of a cooperative effort at the Federal, State, and local level, based largely upon such initiatives as the gifted and talented program in the Special Projects Act, part of the Education Amendments of 1974, we have begun to remedy this neglect. Yet we have only begun to identify and reach these children with new methods and programs. Part E will improve and expand the current effort and provide the crucial next step in the history of State and Federal action to serve the gifted and talented.

The committee determined that the problem of the gifted and talented has not been well understood. There exists a pervasive opinion that these children constitute an elite group who will automatically, by the very nature of their outstanding abilities, reach the top in their respective field of experise. Yet this assumption does not begin to account for the fact that the talents of the gifted are frequently potential talents, and may only be made actual through a major effort to identify these children and provide them with necessary instructional programs. Only last year, less than 4 percent of the gifted and talented children in this country were receiving services commensurate with their needs. This means that over 1.9 million gifted children were seriously impeded in their educational progress. There is an implicit, unacceptable cost to leaving this precious resource untapped.

LEGISLATIVE HISTORY

The National Defense Education Act of 1958 was the first visible Federal effort to identify and educate gifted children, and was largely a response to a perceived superiority in educational and scientific programs in the Soviet Union. It emphasized those children demonstrating outstanding scientific, mathematical, or technical ability. In 1969, Public Law 91-230 mandated the Commissioner of Education to evaluate the status of the education of the gifted and talented, examine the role of Federal, State, and local assistance to these children and recommend new programs to meet current and future needs. The resultant report to Congress in 1972, "Education of the Gifted and Talented," commonly known as the Marland Report, indicated a lack of resources for gifted and talented children at all levels of government and a concomitant need for an increased Federal role to narrow the gap between the need for services and actual services provided.

Six years ago, when the Marland Report was released, only 10 States had a single staff person working even half-time on the gifted and talented in their departments of education. To begin to meet the needs of our gifted population, legislation was initiated which resulted in the Gifted and Talented Program under the Special Projects Act in 1974. Special projects were a new concept to allow new ideas a period of gestation in which they could prove their worth. A "basket" of seven new Federal demonstration programs was established.

THE NEED FOR NEW LEGISLATION

Review by the committee showed that the program operated by the Commissioner of Education under the Federal Gifted and Talented

Program has been successful in doubling the capacity of state education agencies to identify and serve gifted children. Yet the $2.56 million current appropriation for the existing program is insufficient. If the estimate of 2 million gifted and talented children in this country is correct, then this Federal expenditure is little more than $1 per gifted child.

The current Federal expenditure in the existing Gifted and Talented Program assists, through competitive grants, nascent programs in slightly more than half the states. In addition, these funds support projects of educator and leadership training and a small, though diverse, range of demonstration projects sponsored by local education agencies. In fiscal year 1976, over 400 applications for local project funding were received by the Office of the Gifted and Talented; more than 20 applications were received for each such project funded. There exists a great unsatisfied demand for new legislative directions to meet both the present and future requirements of the gifted and talented.

The Federal role should be to give direction and coherence to a more broadly based program of state and local support for gifted and talented education. In strengthening this program, the committee has acted within the broader framework of ESEA title IV, which contains mechanisms for a flexible and streamlined distribution of funds without the sacrifice of individual program identity.

EXPLANATION OF PART E

Part E provides for grants to States pursuant to their approved title IV state plans, which shall be expanded to include a gifted and talented component. The distribution of assistance to the States and from State to local education agencies will function in a manner similar to the existing title IV–C mechanism: that is, moneys allotted to the States based upon relative proportion of population of children ages 5 to 17 (with calculations for minimum states) and distributed by the SEA to local education agencies on a competitive grant basis. Each State receiving funds under Part E must insure that at least 25 percent of its allotment goes toward projects including a component for the identification and education of disadvantaged, gifted, and talented children, a population underserved and inadequately identified in existing State and Federal programs.

The new part E program is primarily one of financial assistance and encouragement to State efforts to serve gifted and talented children rather than wholly federally administered support. Thus, States receiving allotments are expected to match Federal support for their programs with non-Federal funds of their own, gradually phasing into a 50–50 Federal-non-Federal match in fiscal year 1983. This encourages growth within State programs to a point where each State's gifted and talented population may begin to be adequately served.

Part E provides that 75 percent of the funds appropriated be reserved to the States, for distribution to LEAs and coordination. The Commissioner of Education is given discretionary authority over the remaining 25 percent of funds. This discretionary fund is to be used for activities similar to those currently funded under the gifted and talented component of the Special Projects Act—training of leadership personnel and educators, model projects of identification and education, an information clearinghouse, and a research function. In providing for a research program, the committee intends that the Commissioner shall consult with the Director of the National Institute of Education in the determination of the appropriate research roles of the respective agencies in Gifted and Talented education. The Commissioner may transfer all or part of such funds for research to NIE, based upon this consultation.

The distinction between State and Federal discretion within this new Federal program enables States and localities to best determine their own need for services to gifted and talented children while simultaneously insuring proper Federal coordination in this effort. Furthermore, the Commissioner's discretionary authority allows targeting of funds to areas of greatest need nationally.

Not less than 5 percent of the amounts appropriated for title IV will be for the new part E for gifted and talented. This small setaside will guarantee that a sufficient amount will be appropriated to carry out the purposes of the gifted and talented program, specifically formula grants to the States and the Commissioner's discretionary program.

The committee bill provides that no State shall receive less than $50,000 under the State formula grants program. This will insure that each State has a sufficient amount to initiate a gifted and talented program. Under the existing Federal program, States must compete against each other to receive the limited funds appropriated for gifted and talented children.

Five percent of the funds a State receives from its allotment may be used by the SEA for coordination and technical assistance to local education agencies in gifted and talented programs. This State coordination setaside for part E will properly enable each State to select the administrative framework most suitable for its gifted and talented program. The committee is well aware that certain States currently administer their gifted and talented programs within special education units, and that this system of administration has proved most successful. We expect that such successful efforts will be continued, where appropriate. Such flexibility is consistent with the philosophical and programmatic framework established in the title IV consolidation mechanism.

Part E retains the current language of the Special Projects Act, which states that the Commissioner shall designate an administrative unit to administer the Federal gifted and talented program. The Office of the Gifted and Talented, within the Bureau of Education of the Handicapped, has successfully administered the program under the Special Projects Act at the Federal level. The committee expects that such effective administration will be continued.

The committee intends that the Commissioner shall prescribe appropriate regulations for part E which shall include the equitable participation of children in non-public schools in programs of education of the gifted and talented. As Part E provides for an escalating non-Federal matching share, phasing into a 50–50 match in fiscal year 1983, the Commissioner should consider whether a match in-kind by non-public schools to ensure such participation, commensurate with the State constitutional and statutory framework, maye be advisable. Such in-kind matching is currently extant in the Head Start and school lunch programs.

The committee recognizes that certain States currently provide funds to local education agencies for the education of gifted and talented children by declaring such education to be a priority area under part C of title IV. The availability of funds for gifted and talented education under Part E is intended neither to pre-empt existing state support of the gifted and talented nor to preclude new support of the gifted and talented as a State priority area under part C.

TITLE V—STATE LEADERSHIP

Section 105 of the committee bill authorizes a new title V of the Elementary and Secondary Education Act, replacing the existing title which was consolidated in 1974. This new title, State leadership, is designed to put in one place within the Act the duties of State educational agencies in administering the programs for which they are responsible.

Witnesses before the committee have for years noted that the existing structure for State administration of Federal aid programs is unnecessarily duplicative and burdensome. Each law has its own set-aside of Federal funds for State administration, which is required to be kept fiscally and operationally separate at the State level. Too often, this has led to unnecessary bureaucratization of State programs, with offices performing similar functions artifically separated within the State educational agency structure. Audit requirements for accountability of distinct program funds have, according to descriptions given the Committee, led to such compartmentalization that an employee paid from one Federal program's administrative set-aside could not use equipment purchased with another program's funds. Clearly, this does not make practical or fiscal sense.

The committee bill seeks to deal with this problem by initiating the consolidation of administrative accounts at the State level into a single title. This would affect titles I and IV of the Elementary and Secondary Education Act, as these are the only titles administered through State departments of education. However, if this consolidation is successful in simplifying administration and reducing paperwork, the committee hopes that it can be expanded to other Federal programs administered by State educational agencies in the future.

The committee bill provides for a single application from the State educational agency, containing assurances satisfactory to the Commissioner that each program will be administered properly. In addition, the State will adopt a monitoring and enforcement program for the affected programs, and will provide necessary technical assistance to local educational agencies. The State educational agency will be responsible for evaluation of the title I and title IV programs at intervals no longer than three years. State records must be kept and made available for audit. Finally, the State shall undertake wide public consultation in the development of program plans and provide opportunity for suggestions for improvement in compliance with the provisions of the relevant title. Each general application shall remain on file with the Commissioner for the duration of the program. This should cut down substantially on the amount of paperwork currently involved in the title I and title IV programs.

In addition, each local educational agency which participates in a program under the applicable programs shall submit a general application to the State educational agency containing assurances that the local agency will properly administer the program. This application will cover such common requirements as fiscal control and fund accounting, public control of funds, valuation, standards or construction, and dissemination of information. Again, the committee believes that this approach will substantially diminish the amount of paperwork required of local educational agencies in their participation in these programs.

(1) Application approval

The committee bill contains an amendment clarifying the interrelationship between the State educational agency's function of approving applications and other State administrative functions performed under this title, for example, monitoring, auditing, complaint resolution, and enforcement. The amendment requires that, in addition to reviewing the school district applications, the State educational agency must review and take into consideration, pertinent Federal and State audits and program review reports and administrative complaints and evaluations.

The committee feels that application approval is perhaps the most important function performed by State educational agencies. It enables the State educational agency to determine whether an applicant agency has complied with applicable program requirements before the applicant agency implements the program or project described in the application. In addition, the review and approval process gives the State educational agency an opportunity to comment on the quality of the proposed program or project; to provide any necessary technical assistance; and to place the applicant agency on notice as to practices which would be considered unacceptable under title I or title IV.

Application approval is also significant because of the important relationship between the application and State educational agency monitoring, auditing, technical assistance, complaint resolution, evaluation and enforcement.

Furthermore, the effects of approving an application that does not meet all the applicable requirements can include costly audit exceptions; a determination that illegal expenditures must be reimbursed; burdensome attempts to achieve compliance in mid-year; or even litigation by parents and children seeking to insure that their rights are protected. A well designed application approval process can help applicant agencies avoid such compliance problems.

With respect to quality programming, the Committee wishes to clarify its intent in requiring that State educational agencies review and take into consideration pertinent evaluations prior to approval of an application. The Committee intents that State educational agencies determine whether the project described in the application reflects the results of evaluations of that project, i.e., State educational agencies should not routinely approve applications for project designs which previous evaluations have demonstrated are of little value in raising the achievement level of participants.

The Committee believes that more effective State performance of the application approval function would be facilitated if the Commissioner were to provide increased technical assistance to State educational agencies, including model application approval procedures to relate application approval to other administrative functions and a model application form to assist State educational agencies in designing forms for their own use.

(2) *State rulemaking*

The bill also contains an amendment clarifying the authority of State educational agencies to establish State rules, regulations, guidelines, criteria, and other requirements that are not inconsistent with Federal law or regulations. The NIE concluded that State title I rulemaking authority is unclear and that this has produced divergent State interpretations of their authority to establish State title I rules and regulations.

In enacting title I, Congress placed significant discretion and responsibility for programs at the State level. The committee has previously emphasized the crucial role that State educational agencies play in the administration of title I. The important function they perform in such areas as application approval, monitoring, auditing, and enforcement should not be undercut because of uncertainty about their authority to establish State title I rules and regulations. However, the committee also wishes to emphasize the need for the Commissioner to clarify the scope of State educational agencies' authority to establish State title I rules, regulations, guidelines, criteria, or other requirements. The Commissioner should insure that State educational agencies do not establish overly restrictive requirements because of State misinterpretations of federal regulations. Thus, the Commissioner should clarify the various legal program design options and the circumstances under which different program components may be included in program designs.

Similarly, under title IV, the committee believes that it is important that any State rules or requirements should be clearly spelled out.

(3) *Technical assistance*

This amendment clarifies the scope of the State educational agency's responsibility to provide comprehensive technical assistance to local educational agencies and State agencies receiving funds under title I and title IV. Furthermore, it requires State educational agencies to develop effective procedures for disseminating to local educational agencies and State agencies receiving assistance under this title (1) significant and relevant information derived from educational research; (2) information about successful projects and (3) such other information as will assist local educational agencies in planning, developing, implementing, and evaluating programs and projects under this title.

A recent study prepared by the Office of the Assistant Secretary for Education. The DHEW Sanction Study, (1977), concluded that, "State technical assistance efforts vary widely in quality and approach." The committee realizes that different needs may dictate different forms of and approaches to technical assistance provided by State educational agencies. The committee's intent is that State educational agencies provide a program of comprehensive technical assistance, including assistance in such areas as management, program planning, development and implementation, evaluation, preparation of the following year's application, and other forms of technical assistance that may be appropriate.

The committee believes that a broader, more balanced approach to technical assistance will help improve program quality and compliance, as opposed to minimum compliance with the applicable provisions of this title and the regulation.

(4) *State monitoring*

This amendment would require State educational agencies to establish procedures, consistent with minimum standards established by the Commissioner, for monitoring the performance of title I and title IV programs and projects.

The committee believes that monitoring is important because it enables the State educational agency to (1) determine compliance with legal requirements; (2) ascertain whether the program is being implemented pursuant to the application; (3) render technical assistance; (4) determine the quality of the services provided to participating children; and (5) identify future technical assistance needs.

The committee has previously stressed the importance of State monitoring of Title I programs in its report on the 1974 Amendments. Yet, a 1975 GAO report about title I (Assessment of Reading Activities Under the Federal Program of Aid for Educationally Deprived Children) cited a need for improved monitoring of title I programs. The GAO study found that about 35 percent of the State educational agencies visited as part of the study had no formal monitoring systems for Title I.

The report concluded that the State educational agencies reviewed "need to establish monitoring systems, formalize existing systems, or conduct more indepth reviews during monitoring visits if these visits are to be useful in evaluating LEA performance."

Monitoring is an important part of State administration. The Office of Educational should, in the course of conducting its own program reviews of state administration, insure that such state porcedures have been developed and that they are consistent with minimum standards for State educational agency monitoring established by the Commissioners in regulations.

(5) *Complaint resolution*

This amendment clarifies the responsibilities of State educational agencies to resolve complaints about title I and title IV programs and projects. The need for a complaint resolution procedure at the State level stems from the need, generally, for a comprehensive system of procedures interlocking all levels (LEA, SEA, and OE), and the important role the State would play in that system.

Opportunity for appeal from local school districts' decisions, however, and access to a forum other than one presided over by the officials against whom a complaint is made (that is, local school district officials), are essential parts of any comprehensive, interlocking complaint resolution procedure.

Appeal from a local school district's resolution of a complaint could be to the State office. This could offer a forum independent of the local school district. States are familiar with portions of a local school district's activities, namely those funded by the State, that are not normally the concern of Federal agencies. Because they know more about the State funded context in which disputes concerning federally funded programs arise, State educational agencies are first level appellate agencies more appropriate than Federal offices.

(6) *Withholding of payments*

This amendment clarifies the authority of State educational agencies to withhold payments when, after reasonable notice and opportunity for hearing to any local educational agency or State agency, it finds that there has been a failure to comply substantially with any applicable requirement.

NIE analysed the authority of State educational agencies to enforce Title I requirements and found that although the States had implied authority to withhold or suspend funds, the manner in which states implemented this authority was "quite inconsistent". In discussing the problems caused by implied rather than express enforcement authority, the study concluded that, "The most potentially troublesome is the authority of the state to suspend or withhold funding from an LEA."

The amendment gives the State educational agency discretion to suespend the initiation or continuation of a withholding action by entering into a compliance agreement with a local educational agency or State agency receiving funds under this title. The committee intends that, if a compliance agreement has been entered into and the State educational agency subsequently finds, after reasonable notice and opportunity for a hearing, that there has been a failure to comply substantially with the compliance agreement, then the State educational agency shall not make further payments to the local educational agency or State agency until it is satisfied that there is no longer any such failure to comply. Thus, if the State educational agency finds that a local educational agency or State agency has not complied with the compliance agreement, it shall withhold payments under this title until it is satisfied that there is no longer a failure to comply. The Committee does not intend that another compliance agreement be entered into if the State educational agency, after reasonable notice and opportunity for a hearing, finds that the affected agency has not complied with the terms of the compliance agreement. In such cases, the committee intends that the State educational agency withhold payments under this title.

(7) *Audits and audit resolution*

This amendment clarifies the audit and audit resolution responsibilities of States. With respect to audits, it provides that each State shall make provision for audits of the expenditure of funds received under this title and that each such audit shall determine both fiscal integrity and compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant.

The committee notes that a recent study completed by the Office of the Assistant Secretary for Education, the DHEW Sanction Study (1977), concluded that, "Failure to meet audit responsibilities at the

SEA/LEA levels is one of the most frequent findings of the DHEW Audit Agency."

The committee is concerned that the Commissioner has not given sufficient guidance to State educational agencies about their auditing and audit resolution responsibilities. Applicable regulations require that the scope of audits conducted by State agencies or subgrantees include both "fiscal integrity" and "compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant." Yet, the NIE report concluded that the audit policies of most state educational agencies are concerned with fiscal audits, not fiscal and compliance audits.

The committee recognizes that in some states, audits may be conducted by auditors from State agencies other than the State educational agency or by auditors employed by local educational agencies. In the interest of uniform standards for audits of programs under this title, the committee believes that the Commissioner and the HEW Office of Inspector General should establish minimum standards to guide none-Federal auditors in conducting audits that include both fiscal and compliance considerations. With respect to the compliance aspect of Title I audits by non-Federal auditors, the committee believes that, at a minimum, the compliance portion of a general audit should include a review of the following areas: (1) school attendance area eligibility and targeting; (2) eligibility and targeting of children and (3) supplemental use of Title I funds and the prohibition concerning the use of Title I funds for general aid.

The committee believes that an audit of these areas is necessary because these subjects concern the fundamental purposes of the act: to provide supplemental financial assistance to local educational agencies serving areas with high concentrations of children from low-income families to enable these agencies to expand and improve programs which contribute particularly to meeting the special educational needs of educationally deprived children residing in such areas.

The committee also notes that the GAO audit standards issued under the signature of the Comptroller General, Standards for Audit of Governmental Organizations, Programs, Activities, Functions (1947) address the subject of audit instructions by stating that

> Federal . . . agencies that request state, local or other levels to make audits are expected to prepare broad, comprehensive audit instructions, tailored to particular programs or program areas.

The committee believes that non-Federal auditors who conduct such audits would be well served by having a set of audit instructions which have been reviewed and approved by HEW's Office of General Counsel.

The amendment clarifies the audit resolution responsibilities of State educational agencies under this title by requiring that SEA's establish written procedures, consistent with minimum standards established by the Commissioner, for the resolution of audit findings and recommendations.

The NIE report found that, in the absence of clear standards for state audit resolution, "SEA audit resolution policies vary widely;

some SEAs do not have such policies; others have informal procedures for resolving audit findings. In the states that have written audit resolution policies, very few have established deadlines for completion of the process." The committee intends that State educational agency audit resolution procedures include procedures for receiving and, where appropriate, reviewing audit reports and determinations made by auditors from State agencies other than the State educational agency and by auditors employed by local educational agencies.

The amendment also clarifies the responsibility of the State educational agency to recoup from non-Federal sources, funds which audit resolution procedures show were misspent under this title. The committee is concerned that some state policies for the recoupment of misspent funds under this title permit the State educational agency to subtract the amount of the misexpended funds from a local educational agency's allocation and do not require that such misexpenditures be repaid from non-Federal sources.

The committee bill authorizes appropriations of 1.75 percent of the amount allocated to a State and its local educational agencies under titles I and IV of the Elementary and Secondary Education Act, or $550,000 ($87,500 in the case of the outlying areas), whichever is greater. In any event, no State shall receive less for this combined and simplified administrative title than it received under the separate set-asides for fiscal year 1978.

In addition, the committee bill authorizes an additional quarter of 1 percent for State administration specifically for monitoring, audit resolution, and enforcement, provided that the State separately apply for these funds and that such moneys not supplant existing State and local funds already used for enforcement purposes.

The committee bill adopts the administration proposal for a new part B dealing with strengthening State educational agency management. This part authorizes such sums as may be necessary to strengthen State leadership and assist State educational agencies in identifying and meeting critical educational needs of their States. Activities which may be undertaken under this part include the development of more equitable State school finance systems; provision of resources to other branches of State government to conduct analyses of educational issues; development of Statewide programs of assessing student achievement in the basic skill areas of reading, writing, and mathematics; technical assistance to local educational agencies; improvement of communication and dissemination; coordination with educational programs carried out in nonpublic schools; professional development of State educational agency employees; and development of curricular materials and programs.

A State desiring to participate in program under this part shall submit a plan to the Commissioner setting forth its intended uses of the Federal funds. The plan shall also detail the means by which the State will provide information and technical assistance to nonpublic school officials, and a comprehensive plan for the coordination of Federal and State funds for training activities for educational personnel in the State.

In part C of title V, the committee bill continues the existing authorization for Councils on Quality in Education. These councils, created in 1970, have never been implemented by the Department of Health, Education, and Welfare, although numerous Secretaries of HEW and other Federal education officials have promised that action would be taken to appoint council members. The committee bill continues the authorization because the committee strongly believes that such appointments should be made. One of the major concerns of the American public today is the quality of education available to our country's schoolchildren. The National Council on Quality in Education, together with its companion State Councils, could provide a much-needed service in focusing attention on the issue of educational quality and in serving as a national forum for discussion of the needs and goals of education and the methods of improving the proficiency of our students.

The committee bill authorizes such sums as may be necessary to carry out the activities of the councils, not to exceed 2½ percent of the funds appropriated to carry out the title.

SEC. 106.—EMERGENCY SCHOOL AID

This section establishes the Emergency School Aid Act as title VI of the Elementary and Secondary Education Act.

BACKGROUND

The Emergency School Aid Act (ESAA) was enacted in June 1972, Public Law 92-318, title VII. The Act was the successor to the Emergency School Assistance Program (ESAP) of 1970. The Education Amendments of 1974 (Public Law 93-380) authorized continuance of the Act through June 30, 1976, and Public Law 94-382 authorized continuance of the Act through September 30, 1979.

The purposes of ESAA, as stated in the Act, are as follows:

(1) To meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

(2) To encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and

(3) To aid school children in overcoming the educational disadvantages of minority group isolation.

Assistance is available to eligible school systems, and certain other organizations, for instruction services, human relations efforts and other activities related to the purposes of preventing, reducing and eliminating minority group isolation.

Under existing law, the largest single ESAA program allocation is the basic state grant program. Since authorization in 1970, each state has been allocating certain funds based on a formula related to its minority student population. Since 1973, the funding pattern for the basic state allotment has remained relatively stable.

The committee is concerned that the State allocation formula does not distribute ESAA funds based on actual need for assistance. A state's minority student population may have little or no relationship to any given State's need to reduce minority group isolation or overcome adverse effects of minority group isolation. In past years, some States receive an allocation for students defined as minority students, but many of these students have never been in a minority isolated environment. Many States receive large allocations for students who presently attend desegregated schools, and whose system has been desegregated for a number of years.

In addition to the basic State allotment, the pilot and nonpilot organization programs are apportioned to the States on the same basis. Under present funding levels, approximately 70 percent of the total ESAA dollars are spent on these three categories.

The Act also contains authority for special programs and projects, metropolitan area projects, and education television programs, all of which are awarded through national competition.

Under section 708(a), special programs and projects, funds are awarded to programs which promise to make substantial progress toward eliminating or preventing minority group isolation and which are not funded through some other section of this title. This authority provides funds for a wide variety of programs, including special art and math projects, funding for U.S. territories, preimplementation activities, and interdistrict transfers. This section is also focused on those school districts which adopt desegregation plans out of step with the regulation funding cycle under the basic State program or which have special needs constituing an emergency.

Under section 708(b), authority is provided to make contracts with and grants to nonprofit organizations for projects designed to support a local education agency's development or implementation of a desegregation plan.

Under section 708(c), authority is provided for grants to local educational agencies and nonprofit organizations for the development of bilingual education programs to the extent that they relate to a desegregation program of the local educational agency.

In the last several years, congressional attention has been focused on targeting greater funds to this special project and programs authority, allowing for greater attention to be given to those districts in the first stages of implementing desegregation programs.

Committee Amendment

Authority for the Emergency School Aid program has traditionally been vested in the Assistant Secretary of Education. The Subcommittee amendment transferred the authority for the entire program to the U.S. Commissioner on Education. The Commissioner has always been delegated the responsibility for day-to-day management of the program by the Assistant Secretary. An amendment adopted in full committee retains the program's management at the Commissioner level, but maintains the policy and coordination functions under this program in the office of the Assistant Secretary for Education.

The amendment attempts to further increase the focus on school districts in the initial stages of desegregation, making the program more accurately reflect the original congressional intent that there is a Federal responsibility to assist school districts facing emergency situations resulting from desegregation.

The committee amendment deletes from the statement of purpose the reference to educational assistance for the disadvantaged, thus limiting the purpose of the Act to activities associated with immediate desegregation plans.

The committee amendment caps the State allotment authorization at $155 million for fiscal years 1980–83, and deletes authority for pilot projects.

The committee amendment provides an authorization of $245 million for fiscal years 1980–83 for special programs and projects, reserving 25 percent of the appropriations for magnet school programs, the pairing of schools with institutions of higher education and businesses, and the development of plans for neutral schools. In addition, 7 percent of the amount appropriated, is reserved for educational television and radio programs, but not more than 10 percent of the 7 percent can be used to support public radio projects.

The committee amendment makes no changes in the State allotment formula, but does allow any of the funds available for reapportionment to be used to fund special programs and projects.

The committee amendment broadens the existing eligibility criteria to allow districts in the process of developing a plan to receive ESAA funds. Any award made under this new eligibility classification may receive such an award for no longer than two years, and no such grant can be renewed beyond that two year time frame. The committee clearly does not intend that any school district can receive an award under this new expanded eligibility for the purposes of delaying implementation of a desegregation plan. The committee expects that the Office of Education will take the appropriate steps to insure that any district receiving an award under this section is making substantial progress in developing its plan, and taking steps toward implementation of that plan. The committee amendment further spells out that no district may use receipt of a grant under this caegory as an absolute defense in any suit brought against the district.

The committee amendment also makes clear that assistance under this title may be used to support activities in minority group isolated schools not affected by any plan being implemented by the district.

A January 1978 report of the Comptroller General of the United States stated that, "the grant award criteria used by the Office of Education may not adequately consider the criteria specified in the Act." Existing law provides six criteria for approving applications, as follows:

(1) The need for assistance, including the extent (number and concentration) of minority group isolation, financial need, expense of carrying out a plan, quality of education in applying district.

(2) The degree to which the plan will produce a decrease in minority group isolation.

(3) The extent to which the plan is comprehensive (district-wide).

(4) The degree to which the plan affords promise of achieving the purpose of the Act.

(5) That, for State allocated funds, the amount necessary to implement the project does not exceed the amount available for the State in relation to other applications in the State.

(6) The degree to which the plan involves the total educational resources of the community, public and private.

Of the four factors listed above under the term "need for assistance," current policy at the Office of Education speaks only to the extent of minority group isolation, and excludes financial need, expense of the plan, and the quality of education in the applicant district. This has resulted in funds being awarded solely on the basis of numbers and evidence of a well written plan.

In an effort to correct the present deficiency, the committee amendment specifies new criteria which the Commissioner must apply in approving applications, as follows:

(1) The need for assistance based on the expense or difficulty of effectively carrying out a plan described in section 606(a) and the program or projects for which assistance is sought;

(2) The degree to which implementation of the plan described in section 606(a) has effected or will effect a decrease in minority group isolation in minority group isolated schools;

(3) The recentness of the implementation of the plan described in section 606(a);

(4) The degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title; and

(5) The degree to which the plan described in section 606 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

It is important to note that criteria (3), above, the recentness of implementation, is added as a new factor for consideration. This is consistent with the major thrust of these amendments targeting funds to those districts which have the greatest need for assistance.

The committee amendments broaden the existing section authorizing assistance for the development of public television programs to include public radio programs, but requires that no more than 10 percent of the funds under this section shall be used for public radio programing.

Another important change contained in the committee amendment is that which creates a 5-year application cycle. Under the existing 1-year funding pattern, many projects do not have adequate time to evaluate their ESAA program, nor the Office of Education to monitor them, before it is time to submit a new proposal for the coming fiscal year. The Office of Education staff has urged for the last two years that some system of multiple year funding be instituted. The provisions of this title allow school districts to submit applications for up to five years of funding, requiring no application after the first year of receipt of funds.

The committee also wishes to point out that Franco-Americans have been added as a minority group eligible for assistance under this act.

TITLE VII—BILINGUAL EDUCATION

SECTION 107.—REVISION OF TITLE VII

The committee's review of the title VII bilingual education program commenced in late October via public hearing on the status and future directions for the Federal bilingual effort. Ten experts in the field, including members of the National Advisory Council on Bilingual

Education, gave the committee an overview of program problems and shortcomings that sounded disturbingly familiar: inadequate efforts in research and evaluation; insufficiently qualified staffs and programs for teacher-teacher aid training; little understanding of the relationship between bilingual and bicultural approaches; the need for a new definition of an eligible child; personnel limitations within the Office of Bilingual Education that severely hamper OBE's ability to carry out its important mission; and Congressional appropriations insufficient to meet growing needs.

The committee recalls similar criticisms of the title VII effort aired in hearings when the program was last reauthorized, in 1974. At that juncture, the committee, in response to the many concerns for redirection that were expressed, rewrote totally the existing statute to provide major new directives in the vital areas of research, teacher training, parent-community involvement, specification of program objectives, better coordination among research efforts, and new organizational visibility for title VII within the U.S. Office of Education. At the same time, the committee mandated a national assessment of bilingual education directions and needs, to be presented to the Congress in a two-part report, due November 1, 1976, and February 1, 1978. This report was a major emphasis of the 1974 Education Amendments, but as of May, 1978, it has not been submitted to the Congress.

This committee is left, then, with an almost total lack of response to its 4-year-old request for documentation and statistics upon which future directions for the title VII effort can be based. Moreover, recent testimony before the committee clearly indicates that the problems voiced in 1974 are the very problems remaining in 1978. The committee, then, finds itself awaiting critical data, without which major shifts in program directions and allocation methods seem unwise.

With this in mind, the committee bill preserves several sections of the existing title VII statute, provides increased authorizations for training activities, research and evaluation, and grants. S. 1753 makes several programmatic changes, in an effort to focus and tighten both concept and implementation of the Federal bilingual education effort. The committee is pleased to note that its faith in the efficacy of bilingual education is being affirmed in a growing number of States which have adopted sound bilingual programs to meet specific needs. It may be that a more direct Federal contribution to such State and local activities is appropriate for the future; but little progress toward such a service orientation can be made until Federal officials charged with carrying out the title VII program do the job so clearly theirs under the law.

Revisions of title VII.—Bilingual education

A recent GAO report on bilingual education pointed out that evaluations for individual projects "have been inadequate for measuring programs' effect on student achievements and—have been inadequate for identifying projects worthy of replication". Poor self evaluation designs were found even among the best projects, GAO continued.

In light of these findings, the Committee bill authorizes $20 million to carry out a strengthened research and development effort for 1979 and "such sums" for each year thereafter. The Commissioner of Education and the Director of the National Institute of Education shall cooperate in this effort, which emphasizes the improvement of teacher training programs, a documentation of the most effective means of educating children of limited English proficiency and research into the effectiveness of cultural heritage as a component of bilingual programs. The bill also requires that the Commissioner develop guidelines for local evaluations. It is hoped that these guidelines will provide scientifically valid information as well as describe the unique features of each project in order that local level projects can be validly compared.

Students to be served

The committee altered the current definition of eligible participants in two ways. First, the term "limited English-speaking ability" has been changed to "limited English proficiency." The new term is considered to be less perjorative, "proficiency" is a more flexible word than "skills", and dropping the word "speaking" lessens the emphasis on verbal proficiency apart from reading and writing.

Second, the committee modified the definition of "limited English proficiency". In doing so, the committee based its decision on two points raised in testimony.

One problem noted was that in some localities, students were removed from bilingual programs prematurely, and were thus unable to function adequately when returned to instruction given only in English. It is important that children in bilingual classes develop at least a level of competency giving them the opportunity to perform comparably to other children.

Conversely, the committee testimony also showed that in some instances students were remaining in non-English language instruction long after they had developed English proficiency. Albert Shanker, President of the American Federation of Teachers, testified that

> pressures * * * develop to keep ethnic-surnamed children in bilingual education whether or not they need or want these services. This is a serious mistake and waste of scarce dollars. [There are] pressures upon parents of ethnic-surnamed children to keep them in bilingual education simply because the more children enrolled in the program, the easier it is to maintain the staff and the facilities. We have first-hand experience with this sad fact * * *. The practice is widespread. Not only are children kept in these programs after they're able to function in English but there are many children who function very well in English and who are drafted into these programs because of their name and there are pressures once a program gets started.

At the same time, there continue to be a great many children whose English proficiency is severely limited and who must have special assistance in order to benefit from the regular curriculum. These children could, and should, be served with funds currently tied up in programs such as those described above serving children whose skills have become sufficient to permit their participation in the regular classroom.

In order to meet these two concerns, the committee adopted the definition of eligibility as those individuals who "* * * have sufficient difficulty speaking, reading, writing, or understanding the English language to deny those individuals the opportunity to attain levels of proficiency comparable to others at their appropriate age and grade level.

The committee recognizes that the use of a standard of grade average as a measure of English proficiency would result in half of all students failing to meet the standard, as any average (arithmetic mean) will have approximately half of all students above and half below. Surely this is too high a minimum standard to apply to students who must first overcome language barriers before they are able to participate in other aspects of the learning process.

The committee further agreed to amend the Bilingual Education Act with respect to procedures to be utilized in the evaluation of initial grant applications for assistance under that Act.

The amendment would require the Commissioner, in the consideration of initial applications from local educational agencies for bilingual education grant funds, to give priority to applications from such agencies located in geographical areas and proposing to assist children in need that have historically been underserved by programs of bilingual education. The amendment further requires that in approving such initial applications, the Commissioner shall to the extent feasible allocate funds in proportion to the geographical distribution of such children of limited English proficiency throughout the Nation with due regard for the ability of the local educational agency to carry out such a program, and the relative numbers of low income children sought to be benefitted.

The committee strongly believes that effective bilingual education programs ought to be implemented to benefit all children in need of such services throughout the Nation. At the same time, it is recognized that budget realities preclude this goal from being immediately realized through Federal programs. Currently 255,000 children are served by federally funded bilingual demonstration grants. This is far short of the need, however, since the Committee has received estimates of children who could benefit which range from 800,000 to 3.6 million. Thus, the shortfall in program resources to program need could be between 1 to 3 and 1 to 10.

Since it is not presently possible to establish federally assisted programs reaching all children in need of such assistance, the Committee believes that it is important to utilize scarce funds for demonstration programs and projects with a view toward stimulating interest and initiative among State and local educational agencies throughout the Nation which ultimately would lead to successful non-Federal programs.

The Office of Bilingual Education is urged to continue its efforts to provide technical assistance to local educational agencies interested in applying for such assistance, and is encouraged to engage in active outreach programs to stimulate such interest. The Committee also takes notice of the potential need for bilingual education programs among Franco-Americans and Portuguese-Americans in New England, for Spanish speaking persons of Caribbean origin through the Northeast, and urges the Office of Bilingual Education to give appropriate attention to applications designed to meet this need.

The committee stresses that this amendment is not intended to be used as a basis for redistributing funds to favor one language group over another exclusive of need. Projects grants should continue to be awarded according to the degree of need for assistance and the quality of the existing projects or future project proposals. It is anticipated that increased funding for title VII in future years will enable the Commissioner to reach regions and groups which have historically been underserved.

PARTICIPATION OF ENGLISH-SPEAKING STUDENTS

The issue of the extent to which English-speaking children should be permitted in Title VII projects was addressed by the Committee in the following manner. The bill allows the participation of English-speaking children but adds that they shall not exceed 40 percent. It was felt that the presence of English-speaking children would provide peer models for children with limited English proficiency. This is an important aspect of these children learning English. It was also felt that the presence of English speakers would reduce the segregation of children with limited English proficiency and provide positive experiences for English speakers by exposing them to other languages and cultures. The 40 percent maximum allows a wide range of flexibility for adaptation to local situations.

Types of services to be provided

The Administration-endorsed and the Committee-approved provision provides that "Programs of bilingual education under this title in the Commonwealth of Puerto Rico may . . . include programs of instruction, teacher training, curriculum development and evaluation and testing designed to improve the English proficiency of children and may also make provision for serving the needs of students of limited proficiency in Spanish." The amendment is designed for those children who return to the Spanish-dominent island from the mainland, unable to function appropriately in the first language of Puerto Rico, which is Spanish.

Limitations on financial assistance

The committee recognizes that commitment at a state and local level is important for the success of the program, however, they do not feel that the five year funding limitation proposed by the administration is appropriate. Many local districts are hard pressed for funds at present, and bilingual education for minority students may be a low priority. Without federal funding many children will not receive the help they need. There is no educational base for such a limitation. In most areas with high concentrations of children with limited English proficiency, there are children continually entering the school system—some because of local births and some because of migration. The presence of children needing bilingual education will not disappear after five years. The Committee also noted that no other program in E.S.E.A. has such a limitation.

Teacher training

The committee bill lifted the 15 percent earmarking for teacher training in existing law. The removal of this requirement was favored because of the lack of definition given to this project activity. The bill does require the Commissioner to determine that the applicant had made "adequate provision for carrying out programs for auxiliary and supplementary training programs in accordance with" the relative training requirements of the statute.

Reduction of paperwork

The committee adopted language that permits applications may be made for up to three years, with amended applications permissible in the event of program changes, without the filing of a completely new application.

Administration of the Office of Bilingual Education

The Director of Bilingual Education is assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Commissioner of Education, and the Commissioner is directed to insure that the Office of Bilingual Education is adequately staffed to effectively discharge the provisions of the title . . ." which include:

> Publication in the Federal Register, six months after enactment of the Education Amendments of 1978, bilingual education program models which may include suggested teacher-pupil ratios, teacher qualifications, and evaluation models;
>
> A notification to the President and the Congress by September 30, 1980, of the approximate number of eligible children, by language and by State;
>
> The development of methods, by September 30, of identifying children in need of bilingual education programs;
>
> The development, by September 30, 1980, of evaluation and data gathering models, taking into account linguistic and cultural differences of the child, which consider the availability and operations of State programs for bilingual children;
>
> The coordination, by the Commissioner, of all education components within the U.S. Office of Education which serve, or should serve, the bilingual child.

Parental involvement

The committee's concern for increasing parental involvement on the Parental Advisory Councils is reflected in its adoption of a provision that mandates "parents of children participating in a program of bilingual education shall be informed of the instructional goals of the program and the progress of their children in such programs." It was the feeling of the Committee that this provision would heighten the parents' awareness of the bilingual program and its goals.

Authorizations

It is estimated that less than 10 percent of the eligible bilingual children are currently being served by the program. For this reason, the Committee approved increased authorization from the current $160,000,000 for 1978 to $200 million for 1979, $250 million for 1980 and $50 increments each year thereafter up to 1983's authorization of $400 million.

Other concerns

The committee notes that some Senators expressed concern with the poor quality of many of the instructional materials being used in bilingual programs and with the paucity of high quality materials for many native American, Asian, Pacific and Indo-European language groups.

Section 108 of the committee bill revises the definition section of the Elementary and Secondary Education Act and adds the Northern Mariana Islands. In addition, it repeals the existing authorities for the dropout prevention program and the school nutrition program, which are consolidated into part C of title IV of the act.

SECTION 109.—ETHNIC HERITAGE STUDIES

This section extends, through the fiscal year ending October 1, 1982, title IX of the Elementary and Secondary Education Act.

This title IX, the Ethnic Heritage Studies Act, provides Federal assistance for development and dissemination of curriculum materials, for training of teachers, and for cooperation with community resource people and organizations related to the American ethnic experience. Title IX seeks to develop inter-cultural understanding within a culturally pluralistic society. More specifically, the committee believes the aims of the program are to help students learn more about the nature and role of ethnicity in their own lives and in the lives of others, and to promote effective interactions among members of the various ethnic groups in the United States. The Ethnic Heritage Studies Act authorizes assistance to public and private nonprofit educational and community agencies, institutions, and organizations.

In fiscal year 1976, more than 600 proposals requesting over $30 million resulted in grants totaling $1,800,000—the fiscal year 1976 appropriation—to 49 eligible applicants. Grants ranged from $13,000 to $43,000, with the average grant being $37,000.

Projects funded by title IX include development of course outlines in ethnic history, ethnic plays and films, neighborhood ethnic histories, oral histories from elderly citizens, workshops, and ethnic awareness sessions. All projects funded are for one year.

From information available to the committee, it appears that the Ethnic Heritage Studies Act is successfully meeting its objective. Appropriations for this program have increased to $2.3 million for fiscal year 1977.

The committee proposes to extend this act through fiscal year 1982. The committee thinks the program, through its current focus, is following a beneficial course. However, the committee recognizes that there has been a growing public interest in recent months in the "Holocaust" and in other instances of religious-cultural genocide. These experiences are a painful, but integral, part of the heritage and history of many ethnic groups in the United States today. The committee believes that the Ethnic Heritage Studies Act is an appropriate vehicle to focus further attention and study on these experiences.

SEC. 110.—COMMUNITY SCHOOLS AND COMPREHENSIVE COMMUNITY EDUCATION ACT

Background of title X

This section establishes a new title X of the Elementary and secondary Education Act. This title expands for a 5-year period the Community Schools Act, Public Law 93-380, section 405 of the Special Projects Act, enacted as part of the Education Amendments of 1974. The original Community Schools Act was established to aid the development of community education programs; to diversify related education and community services; and to extend the use of school facilities after regular school hours as determined by the needs of the community.

Under the act, the Commissioner of Education was empowered to award discretionary grants to State education agencies and local educational agencies for such purposes. The Commissioner also was empowered to award grants to institutions of higher education to prepare professional people to undertake work as community education personnel. Authorizations of appropriation were established at $17 million under the Act and have been appropriated at $3.8 million in fiscal 1978.

In the years 1976 and 1977, 96 grants were awarded to local educational agency applicants, 65 grants were awarded to State Educational Agency applicants, and 24 grants were awarded to Institutions of Higher Education. Applicants for grants exceeded available awards by enormous margins, for example, nearly 8 to 1 in 1976, and resulted in a priority to favor beginning new programs.

On March 9, 1978, S. 2711, the Community Schools and Comprehensive Community Education Act of 1978 was introduced in the Senate. It now has 19 cosponsors.

At the time S. 1753 was reported to the Senate, S. 2711 was endorsed by 600 organizations and individuals including the Chief State School Officers, U.S. Conference of Mayors, National Association of State Boards of Education, American Association of Community and Junior Colleges, National School Boards Association, American Vocational Association, National Community Education Association, National Association for Public, Continuing and Adult Education, American Federation of Teachers, and the National Recreation and Parks Association.

The widespread support for this measure rests in part upon widespread acceptance of the need to maximize school and community services and facilities, to promote coordination and to prevent duplication. In addition, experience in the implementation of the Community Schools Act for the past 3 years has fortified public and professional confidence in the efficacy of the program. For example, a National study of the Community Schools Program, described below, concluded that the program has met its legislative and administrative objectives at the local and State level. The program has been greeted with widespread acceptance on the part of educators and community service managers. In essence, the Community Schools program to date has been a small scale demonstration of a policy with much promise. With 37 States having established some form of community education policy, and with 1,400 of the Nation's 16,000 local education districts now operating some form of community education program, title X builds upon a strong foundation in a five year limited effort to assist State and local education agencies to develop a community education capability.

The National evaluation conducted pursuant to Public Law 93-380 was promulgated by the National Advisory Council on Community Education, a statutory body. It was contracted by the Office of Education, which undertook supervision for the effort.

Entitled "Description and Assessment of Projects Funded by the Community Education Program", the evaluation effort surveyed and conducted site visits with a significant sample of State education agencies, local education agencies and related organizations and institutions of higher education receiving grant funds under provisions of the Community Schools Act. The evaluation was conducted in 1977 and 1978. Preliminary findings indicate great satisfaction with the program and with the management of the program by the Office of Education. Community confidence in and support of schools tended to increase in communities operating the Federally funding community education program. Participant satisfaction appeared to be very encouraging to the evaluators. Interagency cooperation was reported to be constructive, of high quality, and appeared not to be handicapped by interagency conflicts which frequently are experienced in cooperative ventures. Preliminary findings indicated, moreover, that community school projects with high citizen participation tended to accomplish more Federal requirements for the program. While these preliminary conclusions must await refinement before final publication, the trends appear to be encouraging to the five year Federal effort set forth in title X. It is expected that the refined evaluation will highlight mistakes made in the implementation of the Community Schools Act and therefore pave the way for the smooth implementation of title X.

SUMMARY OF TITLE X.—AUTHORIZATION OF APPROPRIATIONS AND DISTRIBUTION OF FUNDS

This title is to be "Sunset" in 5 years assuming its provision will be sufficiently funded to implement its fundamental purpose: to assist all State educational agencies and approximately 3,000 local school districts to develop a community education capability. With such a capacity-building support from the Federal Government for a 5-year period, the committee intends that the States and localities assume full responsibility for community education efforts after fiscal 1983. Accordingly, authorizations of appropriations for State grants, local education agency grants, governmental and nonprofit agency grants and training grants begin at a modest level, peak in the third year of the operation of this title and recede to initial levels in the fifth, and final, year of Federal support of community education programs. States are required to contribute a modest 20 percent share of community education funds in the first year of implementation of this Title. State contributions increase yearly to a total of 80 percent in the fifth and final year of the Federal program. Local education agencies and governmental and nonprofit organizations receiving funds directly from the Commissioner of Education must contribute 10 percent of the cost of community education projects in Fiscal 1979 and 1980 and 20 percent in fiscal years 1981, 1982, and 1983.

Authorizations of appropriations are set forth in the following table for various sections of this title.

ANNUAL LEVEL OF AUTHORIZATION OF APPROPRIATIONS

[By fiscal years in millions of dollars]

Section No.	1979	1980	1981	1982	1983
1004—Grants to States	40.0	50.0	60.0	50.0	40.0
1009—Grants to local education agencies	20.0	25.0	40.0	25.0	20.0
1010—Grants to governmental and nonprofit organizations	5.0	7.0	10.0	7.0	5.0
1011—National planning	5.0	5.0	5.0	5.0	5.0
1012—Training	5.0	10.0	15.0	10.0	5.0
1013—Research	1.0	1.0	1.0	1.0	1.0
1014:					
Administration	1.0	1.0	1.0	1.0	1.0
National Advisory Council	.5	.5	.5	.5	.5
Information clearinghouse	.5	.5	.5	.5	.5
Total	78.0	100.0	123.0	100.0	78.0

Distribution of funds pursuant to section 1004 is required on a formula basis to the States. Each State would receive its proportionate share of appropriated funds as computed by each State's percentage of the National total population. No State would receive less than $50,000 per year. Participation in the Community Schools and Comprehensive Community Education Program, however, is entirely within the discretion of each State. Election to participate must be accompanied by a State plan, however, and by a State commitment to develop a 10-year plan for the coordination of education and other community services at the State level. Each State may utilize 20 percent of its grant for administrative and planning efforts; the remaining 80 percent must be passed through to local education agencies.

The Commissioner of Education is authorized to award grants at his or her discretion to local education agencies, to governmental and nonprofit organizations and to institutions of higher education pursuant to Sections 1009, 1010, and 1012 and according to regulations published by the Office of Education. Such potential recipients must not be assisted under a State plan, but must meet the requirements of a State plan where one has been established.

In pursuit of a National purpose to coordinate diverse and frequently fragmented education and related human resources programs, the Committee established a National planning and leadership effort in the Office of the Assistant Secretary for Education. Under the provisions of the General Education Provisions Act, the Assistant Secretary is the chief officer of the Education Division within the Department of Health, Education and Welfare and is responsible for the Division's planning, policy-making, and coordination activities. A special annual authorization of appropriations of $5,000,000 has been recommended in order to permit the Assistant Secretary to generate a truly useful 10 year plan for the government-wide coordination and development plan.

In section 1014, $1 million has been authorized to fund the administration of this title by the Office of Education. $500,000 has been authorized annually to support the operation of the National Advisory Council on Community Education and the Community Education

Information Clearinghouse, both features of the original Community Schools Act and both recommended for reenactment in title X.

Evaluative research, the results of which are to be reported to the Congress, is required of the National Institute of Education, subject to available funds, to answer many basic community education issues in section 1013. $1 million for each of the five years of this title has been authorized for appropriation for this purpose.

In order to encourage coordination between schools and other community services, this legislation provides in section 1006 that community education funds granted under this Title may be credited as non-Federal matching funds for community services implemented in a community school and where there is a necessary relationship with community education. The consequence of this provision would be to encourage related community services to work out collaborative agreements with community education programs. By so doing, the related community service program is able to credit the amount of the community education grant received by the State or local education agency under this title as non-Federal local matching money if such be required this incentive becomes operative only pursuant to an agreement with such a school. Since the average community school grant under Public Law 93-380 was $32,000, and in light of the estimate that a community school program in an average elementary or secondary school will require $40,000, the extent of this credit is fairly modest. However, where applicable, the committee believes that this provision can generate important incentives to coordination of service and efficient use of school facilities.

Need for this legislation

The primary issues addressed by this legislation are: inefficient use of school building; fragmentation of human services; planning, research and training to enhance the capability of school authorities to better utilize facilities and coordinate with related community services.

1. School buildings.—Many school buildings are closed after school hours, on weekends, and during the summer months. This means that at these times these facilities, are inaccessible to the community which supports them. This results in a great waste of school plant and energy expenditures. On the other hand, Community School programs have made more efficient use of school buildings. The schools are open late into the evenings, on weekends, and in the summer months, and provide programs for people of all ages who reside in the community. Cost benefit estimates indicates that 8 percent of the net cost of a regular K-12 program results in an increase of three times the utilization of the school building through a community education program.

The extent of underutilized and abandoned school buildings is not precisely quantifiable at the present time. Every local education agency has experienced this phenomenon, however, and many seem to prefer to close such buildings altogether rather than shoulder the burdens of providing heat and light energy for them. Underutilization of school facilities is an inevitable consequence of reduction of the population of school-aged children. Testimony delivered May 10, 1977 on H.R. 15 before the Subcommittee on Elementary and Secondary and Vocational Education of Human Resources indicated, for example, that falling birth rates have resulted in a 10 percent decline in school enrollments over the last 18 years and that a further decline of 7 or 8 percent is certain by the middle of the 1980's. Iowa, for example, alone sustained a 29.5 percent reduction in elementary school enrollment between 1970 and 1974. Coupled with such demographic trends as the modest population growth of the United States being comprised to the extent of 25 percent of immigrants to this Nation, it is clear that school facilities, services and financing bases are subject to great pressures in the immediate and long-range future.

In response to such an issue, S. 2192, "The Surplus School Recycling Act of 1977", was introduced in October 1977. Referred to the Committee on Banking, Currency and Urban Affairs, this proposed legislation would provide grants to the Department of Housing and Urban Development to convert abandoned school facilities for community centers and other purposes. While title X of this legislation focuses upon the use of operating schools rather than physical conversion of abandoned sites, consideration of related legislation provides some index as to the need for full utilization of school plants in an era of intense scarcity and change.

In testimony before the Subcommittee on Elementary, Secondary, and Vocational Education of the House of Representatives on March 6, 1978, Dr. Wilbur J. Cohen, Dean of the School of Education of the University of Michigan and former Secretary of the Department of Health, Education, and Welfare commented as follows:

> I testified before this subcommittee several years ago in favor of the Community Schools Act. Events of the last few years have convinced me of the need to expand significantly Federal funding for community education . . . Community education offers creative alternatives for utilization of vacant school buildings . . . We can and should make every effort to keep our schools open 18 hours a day or longer, 6 days a week to make it possible for every young person, adult and senior citizen to participate in the learning and relearning process.

2. *Coordination of education and community services.*—Community education emphasizing the coordination of community service within the school, holds promise as a possible avenue for alleviating the problem of fragmentation of services. For many aspects of the American population, such fragmentation is a major obstacle to receipt of expected benefits of government programs.

A March 20, 1978, report by the General Accounting Office documents the hopeless maze individuals must go through to get the services they need. In its "Report to the Congress: Information and Referral for People Needing Human Services, A Complex System That Should Be Improved," HRD-77-143, the General Accounting Office summarizes its studies of fragmentation and coordination of services as follows:

> The Federal Government spends $100 billion annually to provide for services in areas such as health, rehabilitation, employment, income maintenance, nutrition and education . . . This orderless growth has resulted in a specialized, fragmented system characterized by: duplication of and com-

> petition between services and functions; waste of resources; barriers obstructing access; and inadequate services.
>
> As a result, people can be shuffled from agency to agency, and many either will not receive the services needed or will receive them only after great or exasperating difficulty.

The General Accounting Office goes on to observe that comprehensive service centers provide one solution to these difficulties, but depend upon all too rare interagency cooperation. An initial approach to cooperation is the utilization of information and referral services. The committee believes that the focus of such services in community schools can be a significant solution to the fragmentation problem.

Service fragmentation hits the elderly severely. A hearing conducted by the Select Committee on Aging of the House of Representatives on April 4, 1977, was entitled "Fragmentation of Services for the Elderly." The testimony brought forth at the hearing consensed that fragmentation is a rampant characteristic of services for older Americans and that there needs to be public policy based on working with the whole person and the whole community.

Two recent General Accounting Office studies bring home this point in specific service settings. In its publication, "Report to the Congress: Home Health—The Need for a National Policy to Better Provide for the Elderly," December, 1977, GAO indicated that Federal, State and local officials acknowledge that home health care and other related home-delivered services for the elderly are not being effectively coordinated. In its publication, "Report to the Congress: The Well-Being of Older People in Cleveland, Ohio," April, 1977, GAO asserts that because many agencies provide similar services to the elderly, coordinated and centralized administration should be attempted. The committee believes that community education programs conducted in support of services to the elderly living in local school districts could bring many benefits to the people and their community.

The issue of fragmentation has been treated prominently by the Committee on Appropriations of the U.S. Senate. In its Report accompanying H.R. 7555, the 1978 appropriations bill for the Departments of Labor and Health, Education and Welfare, the committee repeatedly calls for coordination of federally funded health programs with schools, school health agencies, county health departments, private practitioners and other local providers. The committee intends that the problems identified by the Committee on Appropriations be remedied, in part at least, through community education efforts.

The community school, whose location is usually known in a community, often becomes a comprehensive service center, accessible to people of all ages in the community. Community education programs frequently provide health services.

In setting forth the following examples of the use of community education programs to coordinate and prevent duplication among community services, the committee has selected for illustration only a few programs from different regions of the Nation which address these issues:

(1) Providing Sheltered Workshop and Other Comprehensive Services in Fairlawn, New Jersey.

Scope of activities and services.—Five community schools offer services to 7,000 citizens, including a comprehensive senior citizen program and a sheltered workshop for the employment of 15 handicapped persons.

(2) Sharing Educational Resources and Volunteers in Elmira City School District, New York.

Scope of activities and services.—Program for gifted and talented, high school internship, career education, preschool, established liaison with Senior housing centers, and many other programs.

(3) Neighborhood Resource Centers: An Approach to Community Education, Lynn, Mass.

Scope of activities and services.—Programs are based in the needs assessments made in each neighborhood. Most programs are geared to strengthening the whole family and interaction between different age groups. Activities offered in the following areas: education, recreation, culture, mental and physical health, Adult Basic Education, Early Childhood learning.

(4) Enrichment and Extension of the regular school program to all age groups; Wheeling, W.V.

Scope of activities and service.—Provide extended evening and weekend hours for programs for all ages in academic growth, vocational development, enrichment, and recreation; use of the community as a resource in education of children. Work study program for truant children.

(5) A rural model for expanding and developing a community education program in five rural agricultural communities. Tranquility, Calif.

Scope of activities and services.—Program includes adult education classes, recreation, activities for senior citizens, adults, and youths, and community service health, transportation, tax assistance, and other related human services.

(6) Northern Cheyenne Community Education Program, Lame Deer, Mont.

Scope of activities and service.—Programs are provided for all age groups in leisure time and recreational activities.

The committee believes that education policies, systems and facilities should contribute fully to local community well-being. School facilities should be available for a wide range of community services. Educators should be encouraged to draw heavily from local individual and public agency resources for program enrichment. To accomplish these objectives, effective working arrangements between the schools and other human resource programs and delivery systems must be developed. The committee is particularly concerned that community education activities economically utilize local citizen participation and preference in order to prevent waste and duplication.

It is the purpose of this legislation and the express intent of the committee, therefore, that where public health, recreation or other local services are determined to be a desirable element of the community education program, that these functions be provided in collaboration with existing local delivery systems. "Collaboration" means that specific agreements between the schools and other public agencies will be developed and implemented, including contractual arrangements. Agreements should address issues of program content, personnel and facility use, among others.

The committee intends that implementation of this program will encourage joint or multiple applications for funding from local agencies, including those providing education, park and recreation, health, cultural or other services.

The objectives of this title are predicated upon an opportunity for full public participation in all phases of planning and development of educational facilities and their operations. Educational facility planners, for instance, should consult with other public agencies to determine whether specific design criteria are necessary to insure public access and use of school facilities when compatible with primary education objectives.

The committee takes note that a prototype of school-community service cooperation has been developed in the Cities in School project now operating in three American inner cities with plans to expand to several additional communities. A partnership of governmental and non-profit organizations, Cities in Schools is serving approximately 2,800 students at 18 physcial locations in Atlanta, Ga., Indianapolis, Ind., and New York, N.Y. A total of 34 different local agencies participate in the program. These include the three public school systems serving each city; various city, county and State agencies, nonprofit organizations and seven Federal agencies. The Federal agencies pool contributions to the project through the Community Services Administration. The entire program is coordinated at the National level by the Federal Interagency Working Group on the Integration of Human Services staffed by professional personnel on loan from the participating Departments and the Executive Office of the President.

The Cities in Schools project describes its approach as follows:

> The idea of the school as delivery point is based on the belief that the inner city school is the one place where large numbers of people most in need of services can be found regularly in a setting conducive to the development of the holistic relationship that is required. The clientele is there. The place is familiar to them. The service providers come to the clients rather than the other way around. The school provides a natural entry into the community. Through the primary client (one of the school's students), the service team can also reach out to the family and the neighborhood.
>
> Despite all the programs, all the money, and all the people who have been aimed at the welfare of inner-city youth, the great majority of these youngsters are apparently remaining stuck in the no-skill/unemployment/welfare cycle that they have grown up with. CIS argues that the reason for failure is not a lack of resources, but the way they are delivered.
>
> The building block of the Cities in Schools approach is the "Family" divided into "Caseloads"—40 students in four groups of ten supported by a regular teacher for four full-time staff who are detailed to the school by various social service agencies. The four staff positions for each Family are:
>
>> Youth Coordinator—Has overall responsibility for the functioning of the group as a "Family";
>>
>> Programmatic Specialist—Responsible for planning special in-school programs and out-of-school trips, leisure-time and recreational activities;

> Social Service Worker—Responsible for seeing that individual needs are met for agency services, counseling, and legal help;
>
> Supportive Educator—Responsible for remedial education services.
>
> In addition to holding one of these four positions, each person on a Cities in Schools team also has two other roles: as the link for the entire group to his other agency's services, and as a Caseload Manager, responsible for approximately ten students. The Caseload is the ultimate level of accountability in a Cities in Schools project. For these ten students and their families, the staff person is supposed to be the link with the resources of the social service delivery system as well as advisor, referee, or confidant as needed.

The committee intends that programs funded under the provisions of this Title adopt and adapt innovative approaches to service coordination and delivery such as that operated by the Cities in Schools project. It is the committee's intention to encourage and permit the Commissioner of Education to fund Local Education Agencies, nonprofit organziations and municipal entities to enter into cooperative efforts, like Cities in Schools, which seek to coordinate existing human and educational services. The application of effective evaluative research to such approaches is a high priority of the committee as well.

3. *State and National Planning, research and training.*—The committee's earlier discussion of problems of school facility utilization and services fragmentation underscores the need for planning at the State and National level. Community education programs can be successful in the long run only where plans are developed and commitments made to effectively utilize school buildings and coordinate services.

In order to promote the dialogue essential to cooperative agreements among contributing governmental and private agencies, the committee intends that each State receiving funds under the provisions of this title commit itself to develop a 10-year school-community services plan as per section 1008(a)(2). Such plan should create the products and processes whereby any and all State governmental agencies relating to educational and human resources program delivery specify collaboratively their mutual reinforcements, supports and exchange of personnel and activities directed to solving similar problems and serving similar clients.

In recommending ten year State plans as set forth in section 1008(a)(2) the committee intends that States regularly work for coordination and elimination of duplication for a period of time twice as long as the expected life of this legislation. In this way, title X can impact upon the national well-being long after the Federal grant role has ended. While the committee has not created specific planning guidelines for the States, it is expected that the State plans required will be comprehensive, will involve the services of all education-related services, and will carry effective implementation and compliance provisions. The participation of all agencies including recreation and park authorities and groups is essential.

The committee is aware that the multiplicity and variation of Federal programs often exacerbate service fragmentation at the State and local levels. The committee believes that the Federal government must devote as much if not more attention to interagency collaboration and waste prevention as the States. Accordingly, the committee has required in section 1011 that the Assistant Secretary for Education in the Department of Health, Education, and Welfare assume Federal level responsibility for community education policy development and planning.

The principal instrument cited in title X for achieving effective Federal coordination is the mission budget. The committee stresses the necessity of identifying comprehensive Federal education missions as a framework for community education. The mission budget required of the Assistant Secretary should relate mission definitions to completed evaluation and research studies in such a way as to maximize the planning effort and to rationalize implications of 10-year plan recommendations for the Federal government.

In formulating its mission definitions, the committee stresses the necessity for the Assistant Secretary to consult with it and with the Committees on Budget and Appropriations. The success of mission budgets depends upon such basic definitions. Draft definitions should be shared with the named committees early enough that the final definitions incorporate all useful suggestions from such committees.

The committee requests the Assistant Secretary to implement the following procedures in formulating the mission budget required by this title:

(1) In initial and continuing consultation with the Committees on Human Resources and Appropriations of the Senate, and the Committee on Education and Labor and Appropriations of the House of Representatives, and with the assistance of the Comptroller General, the Assistant Secretary shall establish a mission budget for all education programs. The mission budget shall—

(*a*) specify the needs and objectives for each education mission;

(*b*) summarize the findings of evaluations and of cost/benefit assessments and other information pertaining to the effectiveness of programs contributing to each mission;

(*c*) present an analysis of the implications of the findings and assessments summarized under clause (*b*) of this paragraph with respect to changes in administration, regulation, authorization or appropriation of the programs contributing to each mission; and

(*d*) be presented in draft form, including mission definitions and program components to such committees for consultation for a period of not less than 30 days prior to the preparation of the final draft.

(2) The Assistant Secretary shall submit to the committees specified a draft of mission budget definitions for consultation 30 days prior to continuing to develop the draft mission budget.

(3) The mission budget shall be published and submitted in final form to the committees specified not later than January 20, 1979.

Since a 10-year Federal coordination plan using a mission budget will incorporate all relevant evaluative research, the way will be paved for mounting a truly useful research and evaluation effort under section 1013 of this title. The committee stresses that all research undertaken by the National Institute of Education pursuant to this section be designed and implemented in close conjunction with the planning activities of the Assistant Secretary.

The committee, in authorizing community education research, intends that the National Institute of Education shall emphasize evaluation of: satisfaction of individuals served by such a program; the nature and quality of parental involvement; the quality of the delivery of services under the community education program; the incidence of vandalism and school violence, the effectiveness of the relationship between the schools and other community agencies in identifying and delivering community services to children in the schools; and to delivering community services set forth in section 1006(b); the use of needs assessment to improve the community education program priorities; and the impact of the requirement of the contribution of non-Federal sources under section 1015. The National Institute of Education is requested to develop comparisons among different types of community education programs in order to determine their relative merits and outcomes. The National Institute of Education is required in carrying out the functions of this section to consult continuously with the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives and to prepare and submit a final report of the research and evaluation activities under this section not later than January 1, 1982.

The committee has been concerned with the extensive unemployment possibilities for teachers, recreation and park personnel and other community service personnel. Local financial conditions have all too frequently resulted in reductions in force of community service and education workers. The National Center for Education Statistics, for example, notes that only half of the 258,000 graduates with education degrees in 1976 were teaching. One third of those who wanted to teach could not find a teaching job. NCES reports as well that well over 20,000 of those graduates were underemployed, working in clerical, crafts, sales, service or operative jobs.

The committee is concerned that all trained persons in the human resources fields be able to find work, and serve the clientele for whom they were trained. The committee is aware that community education frequently has encountered personnel shortages. Accordingly, the training provisions of this title, section 1012, are meant to first be applied to personnel facing job loss due to reductions in force and retrenchments. This priority mandates the Commissioner of Education to consider first grants to institutions of higher education making provision for such personnel before awarding grants for other training purposes in community education. With over 70 community education training programs in American universities and colleges, the capacity is in place to offer opportunities for a wide range of human service personnel to become skilled in community education at all levels of preparation.

Title X broadly defines a community education program and identifies a number of types of individuals and disciplines which qualify for education and training. It is the committee's intention that individuals otherwise qualified to administer or coordinate community education or allied programs be recruited and deployed from rich and diverse backgrounds respecting a wide range of specific occupations.

Higher education preparation of persons for community education purposes, however, must adopt agreed-upon educational standards. Such standards must be maintained, and enforced. Higher education programs in community education must be controlled for quality if the objectives of this title are to be reached.

SEC. 111.—WOMEN'S EDUCATIONAL EQUITY

This section establishes a new title XI to the Elementary and Secondary Education Act.

The committee is encouraged by the success of projects funded under the Women's Educational Equity Act, section 408 of the Special Projects Act, given the limited resources that have been devoted to the program. Since its passage in 1974, that act has complemented title XI of the Education Amendments of 1972 (prohibiting sex discrimination in employment and educational programs and activities in educational institutions), by making grants available to public agencies, private nonprofit institutions, and individuals to advance the goal of educational equality for women.

Because projects funded under the Women's Educational Equity Act have proven their potential to combat sex bias in education, the committee believes that additional resources should be devoted to the program in order to better address the nationwide scope of both overt and unintentional discrimination in educational activities.

To this end, the committee proposes to take the Women's Educational Equity Act out of the Special Projects Act and establish an independent program with an authorization level of $80 million annually.

The existing Women's Educational Equity Act addresses all levels of education, permits a wide variety of activities to be funded, and includes a diverse range of eligible applicants. Given its limited appropriation of $7.27 million in fiscal year 1977, the program's administrators have chosen to focus on the development of model programs and products which can be made available for use by other institutions, agencies, and individuals, rather than to fund direct services to individuals or local agencies.

In fiscal year 1976, 46 grants were made to school districts, States, institutions of higher education, and educational and women's organizations to develop models in such areas as sex-fair counseling and program materials, training, and monitoring of sex discrimination policies. A preliminary assessment of these activities by an independent research organization shows that many of these projects have been quite successful thus far.

Five contracts were let in fiscal year 1976 for such activities as developing and disseminating materials to assist institutions and agencies in complying with title IX, to establish a communications network in educational equity and to improve dissemination of WEAA funded projects.*

Twenty-one small grants of $15,000 or less supported innovative approaches to achieving equity and included such projects as instructional materials development, addressing the needs of special populations of women and aiding women interested in non-traditional careers.

With the passage of title IX, Congress mandated a national policy to end sex discrimination in education. However, the persistence of overtly discriminatory practices and confusion even among the well-intentioned about what constitutes equality and how it is achieved reaffirm the crying needs for more Federal assistance in this area. Textbooks continue to reflect blatant sex bias and stereotyping. The percentage of females in traditionally male vocational courses has increased only 1 percent since 1972 to reach a level of 6 percent.

In athletics, girls still have fewer teams and sports to choose from, with less funding, equipment and access to facilities. In employment, women presently hold less than 2 percent of senior high principalships.

No matter how successful, the number of projects supported with WEAA's limited funding can go only a short way in meeting these needs. Certainly, the demand for WEAA-type services is great. The demand for the title IX materials which were developed under WEAA exceeded 80,000, and requests are still coming in at the rate of 100 per month. In fiscal year 1976, applications for WEAA funding totaled $105 million, 18 times the amount available.

The committee recommends that the first $15 million appropriated under this title be devoted to projects of national significance, and for the dissemination of both information and project materials related to achieving educational equity.

Funds in excess of $15 million are to be used for assisting local institutions to initiate more equitable practices; these may be based on locally developed plans, or may implement one or more of the practices or models developed under the first part of the program.

Obviously, districts and institutions and institutions involved in legal or administrative enforcement actions to comply with Title IX will need such assistance in order to make immediate and effective changes. However, it is definitely not the intention of the committee to limit assistance to such districts and institutions. On the contrary, the new structure of the program is specifically designed to prevent the necessity of broad legal actions by providing both the means and the motivation to change local practices before issues of equity reach the stage at which legal action is required. Nor is it the intention of the Committee to limit assistance under this program to promoting change in only those areas subject to title IX legal action. Some areas such as school curriculum do not currently fall under Title IX guidelines, but are clearly a crucial part of establishing educational equity for women and men alike.

In order to establish patterns of genuine educational equity, much change must be accomplished at the elementary and secondary school level. Therefore, 75 percent of the local funding (that is, funding above the first $15 million) is to be reserved for assistance to local educational agencies to help them provide educational equity for both sexes. At all levels of education, community involvement is an important component of achieving educational equity. Small grants of up to $25,000 each are also authorized to support innovative approaches.

SEC. 112.—NON-PUBLIC EDUCATIONAL ASSISTANCE

This section adds a new title XII to the Elementary and Secondary Education Act of 1965. The committee has traditionally supported the equitable participation of students enrolled in private elementary and secondary schools in programs for which they would have been eligible if they had attended public elementary and secondary schools. For these nonpublic schools play a vital role in the educational system of the country. Historically, they have made significant contributions to the quality of education throughout our nation. Their continued viability is essential for the maintenance of a strong and diversified American system of education.

In testimony before the Subcommittee on Education, Arts, and Humanities, on October 12, 1977, Father Patrick J. Farrell of the U.S. Catholic Conference emphasized to the subcommittee the important role nonpublic schools play in our educational system. Although Father Farrell's testimony focused on Catholic schools, many of the points he made apply to other nonpublic schools as well. Father Farrell said that:

> Catholic schools, while not as numerous as public schools, are a pervasive reality in our society. They can be found in countless rural hamlets, small towns, and in our great urban centers. Nowhere is this presence as palpable as in our cities. Even with the much publicized problems of parochial education, the Catholic school system is still educating two out of every six children in our largest cities. In the 10 major urban centers of this country there are over 3,200 Catholic schools. In areas designated by the Federal Government as target areas needing special educational services, you will find Catholic schools at every turn. In New York, we have 147 such schools; in Chicago, there are 79 inner-city schools; in Los Angeles, our core city presence includes 72 schools. These statistics could be expanded for other major metropolitan areas.

According to Father Farrell's testimony, approximately 11,000 elementary and secondary Catholic schools provide educational services to the 3,315,000 children who attend them. These schools make a significant contribution to the educational well-being of this country. Nonpublic schools also make significant financial contributions. As Father Farrell pointed out:

> In financial terms, the contribution of nonpublic schools to American education is impressive. Last year, the Federal Government estimated that nonpublic elementary and secondary schools spent $6.6 billion. The vast majority of these nonpublic schools are Catholic. In the city of Chicago, as one small instance, black parents in the center city are contributing $8 million annually to support Catholic schools.

Father Farrell's testimony goes on to point out some of the problems nonpublic schools have experienced in attempting to participate in existing Federal education programs. Although Congress has mandated the equitable and comparable participation of nonpublic school children in Federal education programs since 1965, such equitable and comparable participation has not always occurred. And, even if this

Congressional commitment had been fulfilled, the Committee believes that nonpublic schools would still be in need of additional Federal assistance. It is for this reason that the committee has found it necessary to adopt this section.

This new title XII of the Elementary and Secondary Education Act will provide direct grants to nonpublic schools. These grants must be used solely for the benefit of nonpublic school students in the following ways for the purchase of secular textbooks to be used by such students; for the purchase of standardized tests and scoring services for the use of such students; for the provision, within the nonpublic school, of speech and hearing diagnostic services to such students; for the provision, within the nonpublic school, of diagnostic psychological services to such students; for the provision of guidance and counseling services to such students; and for the provision of necessary transportation to such students to and from the nonpublic school. In addition, grants may be used to provide secular, neutral, and nonideological instructional materials and instructional equipment for the use of nonpublic school students, so long as such materials and equipment cannot be diverted to religious use, cannot be affixed to the nonpublic school facility, and can be easily taken home by the nonpublic school student.

It is the belief of the committee that the types of services covered by this new program are the kinds of services that have been looked upon favorably by the Supreme Court in its review of cases concerning the provision of services, through public funds, to nonpublic schools. In order to remove any doubt about the Constitutionality of these grants, the committee has provided for an expedited constitutional review of any provision of this title. In addition, the committee has included a severability clause in case any provision of this title might be found to be unconstitutional.

The application procedure envisioned by the committee is a simple one whereby the nonpublic school shall apply to the Commissioner of Education for funding, and shall in its application assure the Commissioner that any funds received shall be used only to carry out the purposes of this title. The Committee expects that the Commissioner's discretion to approve or reject applications will be kept to a minimum, and that a nonpublic school, to have its application favorably acted upon by the Commissioner, will merely have to assure the Commissioner of the purposes to which the grant funds will be applied. Since the Commissioner's discretion in this process will be kept to a minimum, the Committee expects that applications will be approved in a manner that will reasonably approximatee the chronological order of their receipt.

This title also creates the position of Deputy Commissioner for Non-Public Education. At hearings held before the Subcommittee on Education, Arts, and Humanities on October 12, 1977, the Reverend Patrick J. Farrell, representing the United States Catholic Conference, urged that the position be created. One of Reverend Farrell's reasons for creating this position was to assure that educational policy development within the Department of Health, Education, and Welfare is both sensitive and responsive to the special needs of the nonpublic school community. The Committee intends that this new position will achieve this goal. The Committee intends this position to be one that reports directly to the Commissioner, and the duties and responsibilities of this position shall be those of coordinating and directing Federal educational efforts aimed at making Federal educational assistance available to nonpublic schools and nonpublic school students.

The authorization for this title is $500 million for fiscal year 1979 and for each succeeding fiscal year.

Section 113 of the committee bill authorizes the Commissioner to make a study of the feasibility and desirability of alternative criteria for demonstrating comparability in title I of the Elementary and Secondary Education Act.

It has been alleged that the current comparability requirements are burdensome, overly rigid, give a false picture of school district financial status, and unintentionally detract from the effectiveness of Title I services. OE program officials reported that in fiscal year 1976, 172 school districts failed to demonstrate comparability as of the prescribed date: however, no school district had its application finally disapproved because of failure to submit a revised report.

The Committee hesitates to take any definitive actions in the revising comparability requirement without assessing their impact, since the comparability requirement is central to insuring that Title I represents a special commitment to eligible schools and children. However, the Committee does see the need to study the use of alternative criteria to measure comparability.

Consequently, this amendment authorizes the Commissioner to waive existing criteria for a limited number of school districts for the purpose of analyzing the feasibility and desirability of modifying existing criteria. The study will among other things, analyze the extent to which a school district which is able to comply with the alternative criteria does not comply with existing criteria and whether the use of alternative criteria results in increased problems in the effective oversight of the comparability provisions by the State educational agency and the federal government.

The committee recognizes that some school districts are of the opinion that the existing criteria inhibit the development of innovative staffing patterns and thus it is expected that many of the alternatives will address this issue. It has also been asserted by an NIE contractor of a papr entitled, "An Analysis of the Basis for and Clarity and Restrictiveness of the Program Requirements Applicable to Local School Districts Applying for Grants Under Title I of ESEA" that the use of the non-Title I average as the standard of comparison for purposes of demonstrating comparability permits significant inequities with respect to the provision of services paid for with State and local funds to Title I project area schools. These potential inequalities result from the wide variations in the schools constituting the non-Title I average. It is expected that a fair percentage of the alternatives will address this alleged inequity. Alternatives to the use of the non-Title I average which might be selected by a local educational agency include the use of the most favored non-project area school and a requirement that the standard deviation for the non-project area average or some other measure of variance does not exceed a certain tolerance.

Since the purpose of this alternative is to study the development of alternative criteria which provide greater flexibility without compromising the purpose of the comparibility provisions, school districts must, among other things, continue to ensure that each Title I school be compared with a standard reflecting service provided in schools not receiving Title I funds, that only expenditures for instructional services be included, the school district continues to report comparability as of a given point in time, i.e., the mere existence of a formula for distributing funds will not qualify as an acceptable alternative to the existing criteria, that the local educational agency files with the State educational agency a statement of the specific policies for ensuring that instructional materials and supplies are provided on a comparable basis, and all other provisions in the existing regulations published in the Federal Register (41 FR 42894 et seq., September 28, 1976), including the provisions specifying the dates for reporting comparability, that comparability must be maintained, and the enforcement provisions are still applicable.

Section 114 of the committee bill authorizes an Advisory Panel on Financing Elementary and Secondary Education.

The committee believes that the problems of financing elementary and secondary education over the next decade deserve considered study by a high-ranking panel which can review the full range of financing alternatives on the local, state, and Federal levels. Accordingly, it recommends the establishment of a 15-member presidentially appointed Advisory Panel on Financing Elementary and Secondary Education within the Department of Health, Education, and Welfare.

This advisory body shall conduct a study (coordinated with activities of the National Institute of Education) of the financial condition of elementary and secondary schools in the United States. The Panel shall also devise a procedure for collecting uniform data from the States and their subdivisions concerning the use of financial resources, including information concerning equalization of resources among local educational agencies.

A preliminary report on this study shall be submitted to the Commissioner of Education not later than 1 year plus 60 days after the enactment of this legislation; a final report will be submitted to the Congress within 6 months thereafter. In addition, the views and recommendations of the Panel shall be submitted to the White House Conference on Education called pursuant to the Education Amendments of 1974, and six members of the Panel shall be added to the planning body for that Conference.

The Committee intends that this Advisory Panel shall gather information not now available concerning the financial status and resources of elementary and secondary schools. The Panel's recommendations can therefore establish a reliable base of information to be used by the Congress, the States, and the White House Conference on Education in developing financing proposals.

TITLE II—IMPACT AID AMENDMENTS

OVERVIEW

The impact aid school maintenance and operations program, Public Law 81-874, provides financial assistance to school districts in areas affected by Federal activities. Along with the companion school construction program under Public Law 81-815, this legislation is based on the assumption that Federal activities place a financial burden on school districts by reducing local tax revenues and by causing increases in the number of children to be educated. Impact aid was the first Federal legislation authorizing major support for elementary and secondary education; but because it is based on the notion of compensation for a Federal burden and because it is used for general school purposes, it is unique among Federal education programs.

Over the past 27 years, several amendments to the legislation have been enacted which have expanded its scope. Due to these amendments, increases in the number of school children, expanded Federal military and domestic activities, and growth in the overall costs of education, total Public Law 874 appropriations have grown from $29 million in fiscal year 1951 to $770 million in fiscal year 1978. Between 1951 and 1975, the number of eligible districts increased from 1,172 to over 4,300 and the average local contribution rate (reimbursable cost per pupil) grew from $106 to about $615. Presently, about one in every four school districts in the country receives impact aid for a total of 2.5 million federally connected children and 9,000 Federal properties. Individual district payments range from $2,000 to over $20 million.

Districts are currently eligible to receive impact aid if three percent of their enrollment represents federally connected children or if they have a minimum of 400 such students. These children may be children who live on *and* have a parent employed on Federal property (section 3(a) children) or children who live on *or* have a parent employed on Federal property or in the uniformed services (section 3(b) children). Between 1951 and 1976, the so-called category A children have increased from 50,000 to over 360,000; the so-called B children have increased from 386,000 to 2.1 million.

A district's entitlement is calculated by multiplying counts of these federally connected children by the local contribution rate. A district can choose to base its local contribution rate on average per pupil expenditures from local sources in "comparable" districts, or one-half the State average per pupil expenditure, one-half the national average. Until 1967, full payments were made for A children and half payments for B children, a relatively simple procedure to administer at all levels.

The Education Amendments of 1974 substantially revised the 874 legislation and greatly increased its complexity. These amendments created several subcategories of A and B children, with varying local contribution rates for each subcategory. An intricate payment procedure, the tier system, was erected to set forth funding priorities in years when appropriations are insufficient to pay fully all entitlements (as they have been since 1967). Four different hold harmless provisions were included to east the effects of certain amendments. As a result of this legislation, up to 32 different computations are now required to determine a district's entitlement, with an additional 32 to calculate its payment.

Although these amendments have made a relatively simple program into a relatively complicated one, witnesses before the Committee generally agreed that the new system better reflects the actual burden imposed by the Federal government. Almost no one expressed a desire to return completely to the previous system. However, some problems have surfaced which indicate the need for certain modifications within the existing structure.

PROBLEMS

(1) Treatment of category B students.

One of the more complex provisions of the 1974 Amendments made distinctions between different types of civilian B children: those with a parent employed in the same county as the school district; those with a parent employed out of the county but in the same State as the school district; and those with a parent employed out of the State in which the school district is located. Beginning in fiscal year 1976, payments for out-of-State children were eliminated, and out-of-county B children were set at a lower contribution rate than in-county B's. In addition, out-of-county B's received a lower percentage of their entitlement in the second tier than in-county B's.

The committee explored this situation at length. It received and reviewed testimony from the Department of Health, Education, and Welfare concerning eliminating payments entirely for out-of-county B children. That testimony stressed that such children really did not represent a burden to the local school district. The committee rejected that contention, and decided to continue the existing law with respect to out-of-county B children. The committee also considered, and adopted, an amendment that provided for payment at the regular rate to a school district that is located in more than one county. Finally, the committee considered, but rejected, a recommendation that out-of-state children be again entitled to payments. The committee decided to retain the existing law concerning these out-of-state children.

(2) Low rent housing children

Payments under the Federally assisted low rent public housing portions of impact aid operate uniquely and with more restrictions upon them than payments for any other type of impact children. Since 1975, districts receiving payments for low rent housing children have had to use these funds for compensatory education programs for low income children as approved by the State educational agency. Low rent housing payments are also treated differently from payments for other A and B children in the tier system, in that no payments are made for such housing students in the second tier.

In fiscal year 1976 payments totaling over $60 million were made for approximately 662,000 public housing children. Although these payments are of obvious assistance to school districts and are a great improvement over the situation which existed prior to 1974 when such payments were authorized under the law but never actually made, the Committee has concluded that the continuation of the limitation on appropriations for such children in the second tier of funding has resulted in public housing payments falling far short of paying a fair share of the educational costs of these children.

Most witnesses agreed that the restrictions placed on public housing funds for a title I-type program are difficult to administer and are philosophically inconsistent with the general aid nature of impact aid. A few witnesses even stated that although they were eligible for public housing funds, they did not apply because of the administrative burden involved and because of the slowness of the State approval process. One district administrator testified that his State educational agency would not approve the district's application for such a compensatory education program because the costs were too high in light of the uncertainly of 874 public housing funds. Due to these problems, almost $15 million of the funds available for such purposes during fiscal 1976 were not applied for by eligible school districts, according to the Office of Education.

In light of these administrative problems created by the present restrictions on the use of such aid and in light of the fact that the present limits on the amount which can be paid out for such children result in insufficient payments, the committee has adopted amendments which remove altogether the requirement for a categorical use of such aid and which remove the limitation on second tier funding for such children. This means that public housing payments will go into a school district's budget for the general support of education in that district, similar to most other impact aid payments, and that payments will be made for public housing children treating such children as regular A and B children. According to the Library of Congress, the cost effects of this amendment will be $104 million in fiscal year 1979 presuming funding through the second tier.

The committee, though, would like to state clearly its intention that, in removing the requirements that assistance received through the public housing entitlement be used for a compensatory education title I-type project, it is not also intended that the funds be available for other than educational purposes. In providing these dollars without restrictions, the committee clearly intends that they continue to be used to improve educational opportunities in the school district. The temptation for cities with fiscally dependent school districts to supplant local dollars with these newly available impact aid funds must be totally resisted. Otherwise, those cities and school districts will be in clear violation of the law.

(3) *Needs of heavily-impacted districts*

The most heavily-impacted districts share a number of characteristics which cause them to be severely affected when appropriation levels are insufficient to fund full entitlements or when changes are made in rates and payments. Although these districts constitute less than 3 percent of impact aid eligibles, they generate over one-fourth of the net entitlement. In general, such districts have substantially lower assessed valuations per pupil, substantially higher millage rates, lower expenditures per pupil and higher student/teacher ratios. Most of these districts encompass military bases, which take up high percentages of property and bring large numbers of families into the district.

The amendments of 1974 attempted to recognize these problems by stipulating that districts whose A students constituted 25 percent or more of their total enrollments would be paid 100 percent of their A entitlements through the second tier. While this amendment has helped these districts considerably, they are still troubled by inadequate payments, especially for B children of military parents. These districts now receive the same pro-rated payments for these children as do all other children.

According to several witnesses, military B's create more severe problems than civilian B's in such districts. Because of the Soldiers and Sailors Relief Act, military personnel may maintain their legal residence in another State and may pay income and personal property taxes to their home States. Thus, their B status is illusory. In addition, many of the military B's reside in mobile homes, which in some States are considered personal property exempt from local tax through the Soldiers and Sailors Relief Act. Finally, the States cannot charge sales tax on purchases made by military personnel in business establishments on base.

In recognition of the unusual reliance of heavily-impacted districts on impact aid to support their basic educational program, the Committee proposes an amendment which would increase the tier 2 payments to these districts for military B children from 60 percent to 100 percent of their entitlements. The Library of Congress estimates that this amendment will cost $18 million for fiscal year 1979. The committee has also adopted another amendment to help heavily impacted districts. This amendment would expand the provision in the present law authorizing the Commissioner to make extra payments to these districts in order to help them in balancing their budgets by requiring the Commissioner to make such payments for all children counted for impact aid whenever a district meets the requirements of the section.

(4) *Absorption*

The 1974 law contained an amendment effective in fiscal year 1978, which provides for a reduction of entitlements for B children in school districts where the total number of B children is less than 10 percent of average daily attendance or where the dependency on section 3(b) for total expenditure revenue is less than 25 percent. Essentially, this provision would have required districts to "absorb" a certain percentage of federally-impacted children before receiving any payments.

However, there appears to have been some question as to how this provision was to be implemented. Under its reading of the law, the Department of Health, Education, and Welfare understands this provision to mean that each such district must absorb (that is, not be paid for) the number of B children who constitute 3 percent of the total enrollments of the district. The Library of Congress interprets this provision much more restrictively and understands it to mean that each such district must only absorb 3 percent of the B children in the district. The difference in interpretation makes a very considerable difference in the cost effect of this provision—$42 million for fiscal 1979 under the HEW interpretation and $5 million under the Library's interpretation.

In addition to this confusion over meaning, Committee hearings revealed that absorption of even limited numbers of federally connected children may create financial problems in many districts and have a detrimental effect on the quality of education. Since payments have not equaled full entitlements in over ten years, districts are already absorbing part of the costs of educating federally connected children. For example, one district reported that in fiscal year 1976 payments for B children represented only 25 percent of their per pupil costs, leaving $3,430,000 to be absorbed by local taxpayers to support education of children of Federal employees.

Raising local taxes to counteract even small reductions in impact aid may not be a viable alternative in some districts. In the last 10 years the number of successful local bond elections has dropped from 74 percent to 46.3 percent. Several impact aid superintendents testified that they are currently levying the maximum millage allowable under State law and therefore have no legal way to replace reductions in impact aid funds. Others have attempted bond elections with no success. In these instances, which are becoming more common, the only recourse is to cut back programs.

Consequently, the Committee proposes to repeal the absorption provision contained in the present law. School districts are already not being paid adequately by the Federal government for these children and there is no need to increase this burden.

(5) *Average daily attendance*

Public Law 81-874 provides that the average daily attendance (ADA) used to ascertain payments may be determined according to State law, except that federally connected ADA shall be determined by OE regulations. The General Accounting Office has found, however, that methods used to compute attendance figures for State funds vary considerably from State to State. Some States use attendance figures taken one or two days during the year, while others use an average daily attendance figure. As a consequence, GAO found that 35 percent of the school districts reviewed encountered difficulty in reporting a correct total ADA. In some instances, the ADA reported to OE could not be reconciled with that reported to the State. In other cases, errors in computing ADA led to overpayments or underpayments.

Therefore, the committee bill contains an amendment which would permit the conversion of average daily attendance statistics into average daily membership for school districts in States reimbursing based on average daily membership for State aid programs. The Committee hopes that this amendment will simplify the administration of the program and lead to more accurate data being used. It is anticipated that no increase in cost will result from the adoption of this amendment.

(6) *Handicapped children*

The Amendments of 1974 entitled any handicapped Indian child or child of military parents to 150 percent of the usual A or B payment rate provided that the district is carrying out a program to meet the special educational needs of such handicapped child. In 1976 over $16,000,000 went to about 20,000 handicapped military and Indian children under this program.

Experience with the implementation of the Education of All Handicapped Children's Act, Public Law 94-142, and resulting information about the needs and costs of educating handicapped children have convinced the Committee that some changes in this section of the impact aid legislation are necessary to enable it to better conform with the structure and philosophy of Public Law 94-142.

First, according to OE officials, there is some conflict between the definition of "free public education" in Public Law 874 and the requirement to furnish private schooling, if necessary, in Public Law 94–142. Section 6 of Public Law 874 in particular contains prohibitions against furnishing education to children in facilities other than those located on a Federal installation or owned by a local school district. In addition, the Administration has recommended amending the legislation to make it compatible with recent handicapped legislation.

Therefore, the Committee has adopted an amendment allowing school districts to count as impact aid students those handicapped students who are placed in schools outside the school district. Since the costs of such placement would depend on the type of handicapping condition the student has and also on the type of institution, it is not possible at this time to make an accurate cost estimate of the effects of this amendment; but the Committee nonetheless feels its adoption is necessary in order to conform the impact aid provisions for handicapped children with the general Federal statute providing for the education of all handicapped children, Public Law 94–142.

Second, the implementation of Public Law 94–142 has shown that the costs of providing special education to handicapped children in most cases is far in excess of the 150 percent entitlement provided for such children presently in the impact aid program. In light of the Federal government's commitment to improving education for the handicapped and in order to provide districts with the flexibility to make maximum use of their special impact aid funds and their Public Law 94–142 funds, the Committee recommends that impact aid payments be provided to cover the full excess cost of educating military and Indian handicapped children. These excess cost payments would be in addition to the regular impact payments made for such children due to their federally connected status, and the only deduction which would be made from this excess cost payment would be for the amount provided for their education under the Education of All Handicapped Children's Act, Public Law 94–142.

In view of the variety of techniques used to fund education and to account for funds among the States, the Committee anticipates that the Commissioner will implement appropriate procedures for determining the payments to be made for such excess costs. The Committeee would strongly urge the Commissioner, in formulating these procedures, to use the same rules for such determinations are are used under other Federal laws so as to avoid unnecessary accounting and paperwork.

(7) Section 6 schools

Section 6 of the Public Law 874 provides that the Commissioner must make arrangements for the education of children residing on Federal property when the local school district cannot provide a suitable free public education for these children. There are 26 of these so called "section 6" schools throughout the nation and in Puerto Rico, with a total enrollment of over 38,000 and a total operating budget of about $46 million. Generally, these schools are located on or near military bases, and funds for their construction come from section 10 of Public Law

815. Although their funds come from HEW, the day to day operation of the schools is delegated by HEW to the individual branch of the Armed Services with which the installation is affiliated, or, in a few cases, to the adjacent local school district. Whenever possible, it is HEW's long-range goal to work with the adjacent school district to get them to eventually take over the schools completely.

Committee hearings revealed that the division of responsibility for the schools between HEW and the Armed Services has resulted in neither agency taking full responsibility for their well-being. Consequently, many of these 148 facilities owned by the Federal government are in a serious state of disrepair. For example, the testimony on the Fort Buchanan school in Puerto Rico revealed hazards that posed an imminent danger to the children's health and safety. And, unfortunately, this is not an isolated case. A recent in-depth study of these facilities by the Department of Health, Education, and Welfare has concluded that $10.6 million is required to merely bring these schools up to safety standards. An additional $60 million would be necessary to replace facilities where upgrading would not be sufficient to meet life-safety standards. This does not even begin to cover other less extreme but equally necessary repairs or rebuilding costs, or remodeling required under section 504 of the Rehabilitation Act to make these buildings accessible to the handicapped.

Construction and renovations costs for section 6 facilities must by law now come only from section 10 of Public Law 815. However, a huge backlog of unfunded applications for this section and a meager annual appropriation by the Congress has precluded most of them from being funded. While approximately $230 million would be necessary to take care of all construction needs for these schools, the section 10 appropriation has remained constant at $1 million for the past several years. As a result, some applications have been pending for over 10 years.

As a last resort, some of these schools have occupied temporary facilities borrowed from the local base, and in some instances even these temporary facilities have become rundown. However, neither section 6 or section 10 permit renovation of these facilities since they are technically neither owned nor approved by HEW.

Therefore, the committee has adopted an amendment permitting these section 10 funds to be used not only for construction but also for leasing, renovating, remodeling and rehabilitating buildings. The Committee realize that this expanded authority is at best a short-term solution for the program and that the real solution lies only with greatly increased appropriations. Nonetheless, this amendment is the best remedy that the committee can offer at this time.

The section 6 schools in Puerto Rico present a number of unique problems, since they are the only section 6 schools outside the mainland United States and are located in an area where English is not the medium of instruction. Although the Antilles Consolidated School System is run by the Navy and housed in barracks on loan from the Army, 50 percent of the enrollment is from non-military families. At the Fort Buchanan school in particular, two-thirds of the children are from civilian families.

Decisions affecting these schools are made by an admiral, who is not an educator but who acts as the entire school board for the Antilles school system. Although he is advised by a school council, the majority of the council consists of military representatives and its duties are merely advisory. Unilateral authority rests with the admiral.

According to parents of children attending Fort Buchanan, this situation has led to several unsound decisions to reduce program offerings and ancillary services, decisions which have adversely affected the quality of education and in which parents have had no input.

Represenatives of the Antilles Consolidated Teachers Association also expressed displeasure with the present arrangement. They concurred with the parents' suggestion that a multi-member board of education would better suit the interests of the school system. They also pointed out that Public Law 874 invites abuse by not specifying personnel practices, especially regarding salary. Although the legislation suggests that the education in areas outside the mainland U.S. be comparable with education in the District of Columbia, teachers recommended language which would unequivocally align their salaries with those in the District.

As a consequence of this testimony, the Committee has adopted an amendment making clear that the compensation, tenure, leave, hours of work, and other incidents of employment for personnel in school systems located outside of the 50 States must be on the same basis as that provided in the public schools of the District of Columbia. An amendment was also adopted requiring the establishment of an elective school board in all section 6 schools. The Commissioner is authorized to establish procedures for such elections, and these boards are to have authority to oversee the expenditure of funds and the operation of these schools.

Also in an effort to bring about more accountability for the funding and operation of these schools, the Commissioner of Education is newly required to insure the most efficient expenditure of these funds in each school and to require an annual accounting of such funds for each such school. The Commissioner must also gather data on the quality and type of instruction being provided in these schools. It is, of course, expected that the Commissioner will share this information annually with each of the elected school boards.

A last amendment adopted by the Committee affecting section 6 schools modifies the provision regarding parental status to determine a child's eligibility to enter such schools. Presently, the law requires the Commissioner to determine first that the parent is employed by the Federal government and that this type of education is appropriate and cannot be provided by a local educational agency, after consultation with the State educational agency. The new provision states that the parent must be employed by the Federal government in a grade, position, or classification subject to transfer to an area where English is the language of instruction and that it will be presumed that no local educational agency is able to provide a suitable education unless the Commissioner determines otherwise.

(8) *School construction assistance*

Public Law 81–815 authorizes financial aid to impacted districts for construction of urgently needed minimum school facilities. Eligible districts include those with substantial increases in school membership due to new or increased Federal activities (sections 5, 8 and 9), those with inadequately housed pupils when Federal property constitutes a substantial portion of the school district or with substantial numbers of children residing on Indian lands (section 14), and those where no State or local educational agency funds may be used for school construction on Federal property (section 10). The Act also authorizes construction assistance to schools whose facilities have been destroyed or damaged as result of a major disaster (section 16).

During the period from 1951 through 1975, Federal funds totaling over $1.4 billion have been used for over 6,400 construction projects. The facilities constructed under sections 5, 8, 9 and 14 of the Act have provided facilities to house approximately two million pupils. Facilities constructed under section 10 house over 136,000 pupils.

Since 1967, appropriations for P.L. 815 have been inadequate to meet the demand for school construction. In such a case, the law provides that funds must be allocated according to a priority index based on relative urgency of need. Presently, there is a large backlog of unfunded applications: $115 million in section 5, $230 million in section 10, and $500 million in section 14, for a total backlog of $845 million.

The situation is further complicated by the fact that when major disasters occur, funds for disaster assistance are taken from other sections of 815, superseding all other priorities. This has occurred often in the past few years, leaving substantially lesser funding available for other sections of the Act.

According to representatives of the Office of Education, in many instances school facilities on the waiting list for the Public Law 815 funds simply do not get built because tax powers are at their limit in many of these districts. The committee heard testimony that in some cases facilities represent a danger to the students' safety and they are housed in temporary facilities.

The situation is especially severe for the section 6 schools because they have no other source of funding to turn to in order to construct buildings. Public Law 815 is their only source of school construction funds; and when the appropriations are insufficient, the buildings quite simply do not get built.

The committee has grappled with this issue and has come to the conclusion that the only real answer is to secure increased appropriations for Public Law 815. Several of the present provisions authorizing priorities in funding when appropriations are insufficient could be modified in order to give one class of districts a somewhat higher priority than others, but that is not a real answer since it would be a classic example of "robbing Peter to pay Paul". Therefore, the committee has basically retained the authorizing legislation as it is now written and urges the Appropriations Committees to consider greater funding for the act.

The only substantive amendment to Public Law 815 the committee proposes is one to help in eliminating unnecessary paperwork in counting children. Amendments to Public Law 815 in 1974 changed the determination of A and B category children for Public Law 815, so that for the first time since 1950, the count of children differs from Public Law 874. All children residing on Federal property continue to be classified simply as A children, for purposes of Public Law 815, instead of all of the new subclasses required since 1974 for Public Law 874. Public Law 815 also permits counting of out-of-State B children within reasonable commuting distance, whereas Public Law 874 discontinued counting of these children after 1975. According to OE program officials, these differences have resulted in some administrative problems. At the local level, school districts must frequently maintain some degree of record duplication to differentiate between children counted for 815 and 874. At the Federal level, counts can no longer be validated by comparison between numbers claimed under each law.

Consequently, the committee has adopted an amendment which conforms the children to be counted for purposes of Public Law 815 to the classifications presently used for Public Law 874. With this change, the committee has no intention to shift radically the order of priority for funding under Public Law 815 although some modifications may come about; rather, the purpose is simply to help cut down unnecessary duplicative paperwork being required in this program.

(9) *Disaster assistance*

Public Laws 874 and 815 authorize major and pinpoint disaster aid. A major disaster is one sufficiently severe and broad to be declared as such by the President. Pinpoint disasters are situations where isolated school districts are eligible for aid if their facilities were damaged or destroyed by natural causes but not mischievously. Section 7 of Public Law 874 authorizes assistance for minor repairs, for replacing supplies and materials, for leasing of temporary facilities, and for added operating costs. Section 16 of Public Law 815 provides funds to replace or restore damaged facilities. Grants are the usual form of assistance for major disasters, whereas with pinpoint disasters only loans may be provided.

Between 1965 and 1976, $122 million was appropriated for section 7 payments and $35 million for section 16. During fiscal year 1976, a total of $12 million was authorized for payments under section 7 and $2.6 million was reserved for section 16 applications.

From its date of enactment in 1968 through 1976, the Office of Education did not implement the pinpoint disaster provisions. On July 1, 1975, the Comptroller General ruled that the Office of Education must implement these provisions. The Office of Education consequently began implementation and ultimately made eligibility retroactive to January 2, 1968. Approximately 400 requests for pinpoint disaster assistance were received in 1977 for disasters dating back only as far as July 1, 1975.

Sections 7 and 16 authorize funds to be appropriated in amounts necessary to carry out the provisions of these sections. While these appropriations are pending, the Commissioner is authorized to use funds from any other sections of Public Law 815 for immediately providing major disaster assistance. Under Public Law 874, any discretionary funds appropriated to the Office of Education may be used for quick assistance under section 7.

Several witnesses before the committee testified that although their districts had suffered pinpoint disasters, they have not been able to avail themselves of Federal assistance because their districts simply could not afford to pay back the loan under the conditions set by the

Federal Government. In addition 29 States prohibit local districts from borrowing from the Federal Government. Consequently, the Committee proposes to make the Public Law 815 payments for pinpoint disaster assistance available in the form of grants similar to such aid provided under Public Law 874.

The committee has also received many complaints from school districts about the tardiness of the Office of Education in processing applications for disaster assistance. Therefore, the Committee has required that the Commissioner complete the process of approval or disapproval within 60 days of receipt of an application. Otherwise, the Secretary of Health, Education, and Welfare is to assume responsibility for processing the application and is to complete such action within 90 days of receipt of the application.

(10) *Late payments*

While the impact aid laws are generally regarded to be easy to administer, a persistent complaint from witnesses over the years has been that payments are received too late. Although the Office of Education attempts to alleviate this problem by providing an initial payment of 70 to 90 percent of the estimated entitlement before the close of the school year, this means that districts must operate with carryover funds, borrow funds from other sources, or delay payments of outstanding obligations.

Final payments are generally not made during the fall and winter of the next year. One district reported that some $184,000 in fiscal year 1974 moneys were not received until 1975 and 1976. Another district testified that it is not uncommon to receive final payments as late as 12 to 15 months after the close of the fiscal year.

In addition, the Office of Education has been late in recent years in making even initial payments. This situation creates financial problems for many districts, especially those in States which do not permit districts to operate under deficit financing.

Therefore, the Committee has adopted an amendment which requires the Commissioner to make a payment upon application to a school district within 30 days of the beginning of a fiscal year in an amount which equals at least 75 percent of the previous years' payment. The Committee also encourages, of course, prompt payments of the remainder of the grant. If, however, it is determined later that the school district is not entitled to these amounts, it must of course pay them back.

(11) *Inclusion of federally owned postal properties*

The committee amended the definition of Federal property under the impact aid program to include all property owned by the U.S. Postal Service. The amended definition would apply to approximately 10 percent of the total number of postal facilities now in operation, the remaining 90 percent being leased and therefore excluded.

Since the inception of the impact aid program in 1950, postal property has been included in varying degrees, according to variations in the legislative definition of Federal property. A recurring theme has been that to the extent the Federal presence directly benefits the local community, as in the provision of postal services. Federal financial compensation for the loss of local property tax revenues is not justified.

The committee rejected this rationale. The purpose of this amendment is to treat postal facilities in the same way as other federally owned property is treated under the program. That is, where the property is owned by the U.S. Postal Service and generates no local tax revenues, payments will be made to the local education agency on the basis of the numbers of children served by that agency whose parents live and/or work on the postal property.

(12) *Inclusion of property owned by foreign governments and international organizations*

In this same regard, the committee decided that property owned by foreign governments and international organizations should be treated in the same manner as federally owned property. Thus, where the property owned by foreign governments and international organizations is not subject to taxation by the State in which it is located, or a subdivision of that State, and where that property generates no local tax revenues, payments will then be made to the local education agency based on the numbers of children served by that agency whose parents live and/or work on the foreign property owned by the foreign government and international organization.

(13) *Miscellaneous*

The committee also adopted amendments giving local educational agencies adversely affected by any action of the Commissioner the opportunity for a hearing in accordance with the procedures specified in the Administrative Procedures Act and eliminating payments for students enrolled above the 12th grade for fiscal year 1980 and beyond.

TITLE III—EXTENSION OF RELATED EDUCATION PROGRAM

PART A—ADULT EDUCATION

The committee determined that the Adult Education Program is basically sound, and should be reauthorized with some modifications. It has found the suggestions of the Department of Health, Education and Welfare and the National Advisory Council on Adult Education most useful in its legislative consideration of this program.

The amendments to the Adult Education Act are intended to improve the adult education program nationwide by: (1) revising the purpose of the program to include both grade level reference and an emphasis on competence in basic skils; (2) expanding the adult education delivery system to include businesses, labor unions, libraries, colleges, and community organizations; (3) providing for arrangements to assist and expand participation through flexible course schedules and location; (4) adding a new research, development, dissemination, and evaluation authority at the Federal level; and (5) providing new authority to implement programs to meet special adult education needs of immigrants.

The committee has been most concerned with the proliferation of paperwork generated in programs under its jurisdiction. By providing that the State adult education plan developed through the state education agency be a 3-year rather than annual document, the Committee has attempted to reduce the paperwork burden at the Federal, State, and local level.

The expanded purpose would indicate Federal government recognition of a major problem—that many adults cannot read or write sufficiently well to function in modern society. At the same time, efforts to assist those adults who desire to attain educational credentials such as the high school diploma will continue. To some extent the two aims are complementary, as functional illiteracy and the lack of a high school diploma are highly related.

The proposal to expand the delivery system at the local level—to include such groups as community colleges, businesses, community action organizations, and labor unions—would help to reach adults in convenient and hospitable locations. In order to facilitate this expansion, one year planning grants will be provided to State Departments of Education. These grants would facilitate a participatory process for identifying literacy needs within the State and the development of a coordinated strategy to meet those needs, involving local education agencies, business, industry, community organizations, and other institutions.

Among the expected benefits are increased program effectiveness and greater motivation on the part of adults to enter and remain in the program. A more flexible delivery system should make entry into a program more convenient and attractive. Moreover, the content of curriculum and courses could be based on immediate needs of the adult (for example, learning to read a job advertisement) rather than using traditional elementary and secondary school content. In addition, it is expected that significant numbers of adults not currently being served will be brought into the program by expansion of the delivery system at the local level.

The Federal research and development authority would carry out badly needed activities to improve the state-of-the-art in adult education. Activities would include research on the most effective instructional approaches and delivery systems; examination of student motivation; further developmental work on instruments for measuring functional literacy; and demonstration of effective projects and practices. A major hindrance to development of more effective adult basic education programs is the absence of Federal discretionary authority for these activities. A Federal role in this area is needed.

A small proportion of the funds appropriated for the adult education program is reserved for the purposes of supporting research and develoment, the National Advisory Council on Adult Education, and an information clearinghouse. The latter two activities are currently mandated, but are provided no authorized funding. The small reserved amounts will enable these important Federal activities to continue.

Basic school-based adult education programs have not attracted high participation from many segments of our society. It is for this reason that historically, project grant programs for the elderly, Indian, and Indochinese refugee populations have been included in the Adult Education Act. The Committee intends, through the expansion of the delivery system, that participation by underserved segments of the population be increased.

The committee has included in its consideration of the Adult Education Act a new program under the Commissioner's authority, to meet special education needs of adult immigrants. The committee was impressed with the unserved needs discovered by its review of programs currently serving adult immigrants. Site visits were made and professional associations were consulted in designing the new program. The needs of immigrants differ somewhat from those of other adult education program participants, including a component geared to meet the need of immigrants for programs of English as a second language. Immigrant participation and retention rates in programs offered by the existing school-based provider system are exceedingly low. A study of the experience of immigrants with adult education programs in the early years of this century is still instructive of that experience today:[1]

> Night schools were the most widespread and widely touted agencies for the education of immigrant adults. Yet they failed to reach more than a tiny fraction of their target population. In the early 1920's there were about fourteen million non-naturalized immigrants beyond the age of compulsory public schooling. After years of intensive advertising and campaigning on the part of the Americanizers, only a quarter of a million, less than two percent of the target population, were attending night school. The results were unevenly distributed as well as meager. Though men usually had more out-of-school opportunity to learn English than women, there were three times as many men as women enrolled in night schools. The states with the greatest need for immigrant education did not always make the greatest efforts. New York, first in need, was third in performance; Illinois, sixth in need, was twenty-first in performance; and Wisconsin, eleventh in need, was twenty-seventh in performance.
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> The rapid expansion of night schools in the early decades of the twentieth century should not obscure their failure to educate the vast majority of immigrants. Most night school students were old stock Americans or the American born children of immigrants. In 1915, Buffalo, New York had a foreign born population of 118,687 (over half the population of the entire city), of whom thirty thousand adults could not speak English and eleven thousand were illiterate even in their native language. Yet of the 14,316 students enrolled in night school in 1914–1915, fewer than two thousand were immigrants. In the next few years efforts to enlist the foreign born in night school intensified, but as America entered the war enrollment actually dropped to half of the earlier figure "on account of excessive overtime demanded of the men at the plant." At this point, a massive enrollment campaign was launched, using the press, the schools, the churches, the women's clubs, and the business community. The campaign was a failure. Only a hundred and twenty new immigrants were registered—an increase of about eight percent.

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[1] Maxine S. Seller, "Success and Failure in Adult Education: The Immigrant Experience 1914–1924" "Adult Education" XXVIII: 2 pp. 85–91.

Other cities shared Buffalo's lack of success. In 1917 in Chicago, home of the Immigrant Protective League (an active proponent of immigrant education), foreign born persons over ten years of age who could not speak English numbered over 200,000; but only 17,613 were registered for night school. Three years of intensive educational effort made no difference. By 1920 the unnaturalized adult immigrant population of the city had grown to nearly 300,000, yet the combined efforts of the city's sixty-five different Americanization agencies reached only 25,000, including 1,500 men in factory classes and 400 women in mother's classes. In smaller communities enrollments were often proportionately lower. In 1925, Toledo, Ohio, reported a total night school enrollment of 247, not all of whom were foreign born, including only seventeen women.

Meager as these figures are, they are a gross overstatement of the actual numbers of immigrants in night school because the drop out rates were very high. In Chicago only seven percent of the night school pupils attended as many as seventy out of an eighty session term, while almost one out of four attended fewer than twenty sessions. These figures are for all night class populations; among the foreign population they were lower. Over eighty percent of the immigrant women who entered the highly praised educational program instituted by the California Home Teachers Act of 1914 did not complete the program. This experience was typical, not exceptional. According to John Daniels, author of a Carnegie Corporation study of Americanization, "the great majority of public evening school classes in English and civics for adult immigrants, though they start with a large enrollment, dwindle to small proportions or die out altogether."

Churches, YMCA's, and other private agencies reached even fewer. Secular settlement houses were sometimes able to reach immigrant women, largely through clubs rather than formal classes. But many of the women who participated in settlement house programs were the native born or those who already spoke English fluently—not the population the Americanizers hoped to reach. Settlement attempts to reach immigrant men were almost always fruitless. According to one of the most experienced settlement workers in the country, "the subject of settlement men's clubs and that of Arctic orange groves have this in common, that not only are their data somewhat meager and indefinite, but the evidence at hand appears to show that neither is at present in a conspicuously flourishing condition."

Contemporary observers and later historians have identified many reasons for the failure of American educators to reach the adult immigrant population. Immigrant fatigue, inappropriate materials, inconvenient locations and scheduling, inability of instructors to speak immigrant languages, lack of understanding of immigrant cultures, the condescending, patronizing attitudes of many American educators toward their prospective student, and American refusal to allow immigrants to participate in planning their own educational experiences were major components of this massive failure in adult education. Religious, ideological and political factors also played a role. Catholic and Jewish immigrants distrusted the educational efforts of Protestant churches and agencies such as the Salvation Army and the YMCA, fearing real or imagined proselytizing. Workers involved in unions or in socialist organizations distrusted Americanization education because they recognized its links to the interests of big business.

Ironically, the war itself, which had sparked the massive campaign for adult education, helped to defeat it. The booming industrial wartime economy encouraged immigrants, for patriotic and economic reasons, to spend more hours at work, leaving fewer hours for schooling. Industrialists who tried to make attendance at Americanization classes a prerequisite for employment were defeated by the labor shortage; recalcitrant workers could find employment elsewhere. Finally, increased involvement with the fate of their native lands during the war heightened many immigrant's awareness of emotional ties to the old world; to such immigrants the enthusiastic Americanization campaigns of the "100 percenters" were unpleasantly reminiscent of "Russification," "Magyarization" and other European attempts to suppress their cherished languages and cultures.

One frequently overlooked reason for the failure of the educational campaign of 1914–1924 was the fact that resources fell far short of rhetoric. In 1917, 1919, and 1920 an economy-minded Congress refused to pass bills appropriating even modest sums for immigrant education. Between 1919 and 1921 many states passed laws permitting, or requiring, local communities to provide such education but usually offering little more than token financial support. Financially strapped local communities hesitated to assume the responsibility. Nor were private agencies necessarily more generous. In 1919 the National Conference on Americanization in Industry expressed its support of Americanization classes in factories—provided that public school systems assumed the responsibility of paying the teachers and that employees attended on their own time, without compensation from the company.

Most important of all, the massive educational programs of 1914–1924 failed to attract and hold their target population because, arising from an atmosphere of fear of immigrant "foreignness" and radicalism, they concentrated almost exclusively upon the teaching of the English language, civics, and the "American Way of Life." They offered Americanization, not education. Immigrants defined education more broadly. They wanted knowledge of their native language and heritage as well as that of America. They were interested in industrial and homemaking education, as the American educators assumed, but they were also interested in learning about art, philosophy, science, politics, history, literature and economics. These needs were met by the immigrant communities.

EDUCATION BY AND FOR IMMIGRANT COMMUNITIES

Immigrant communities succeeded where American educators failed because they provided education planned and executed by immigrants themselves, or by second generation members of the ethnic communities; they taught in immigrant languages and in ways that did not violate immigrant cultural traditions; and classes were located in and sponsored by institutions immigrants knew and trusted—the lodge, the church, the union. Most important of all, immigrant communities succeeded where American educators failed because their programs addressed not only "Americanization," but the entire spectrum of immigrant's varied cultural and intellectual interests.

The ethnic neighborhood itself was filled with informal but very effective educational institutions. The Finnish boarding house, the Greek or Armenian coffee house, the local candy store, the ubiquitous corner saloon—these and similar natural gathering places served as informal classrooms where "old-timers" taught newcomers a few basic English words, how to get a job, where to find help in case of illness or other crisis, what local politician could be relied upon for various services, and which American laws were enforced and which could be broken with impunity. The night school taught American ideals; the saloon keeper taught American realities. This, in addition to the more convivial atmosphere, explained the latter's greater ability to attract and hold an audience.

IMMIGRANT ORGANIZATIONS AS EDUCATORS

More formal institutions provided more formal educational opportunities, and every community had many of these—lodges, athletic societies, nationalist societies, cultural societies, musical and literary circles, political organizations, women's organizations of many kinds, cooperatives, theatres, unions and churches. Membership was in itself an educational experience. Conducting meetings, participating in elections, serving as officers, planning programs, conferences, and political activities on a local, regional, or national level—all were important learning experiences for the hundreds of thousands of foreign born men and women who participated. Although the individual's dues were usually small, large organizations handled substantial amounts of money, the management of which provided many lessons in practical economics.

Some immigrant organizations were specifically educational in purpose, such as the literary societies and debating societies. In many of these organizations the better educated immigrants shared their knowledge with the less well educated, the American-born or earlier immigrants with the more recent arrivals. The Hebrew Literary Society of Philadelphia brought in professors from the local colleges and universities to lecture on religious, political and scientific subjects, sponsored debates in Yiddish for those who spoke no English, and maintained a library in Hebrew, Yiddish, Russian, German, and English. The Finnish-American Literary Society encouraged its members to write as well as to read.

The Hungarian community in New York City created an institution apparently modeled after the popular American lyceum. The Hungarian Free Lyceum was organized to "further the education and political knowledge" of the Hungarian community and to "acquaint them with American customs and institution." Here Hungarian-Americans attended lectures in Hungarian or English on topics dealing with their own background, such as "Modern Hungarian Poets" and "Industrial and Social Transformation of Europe," on American history and geography; and on topics of current interest such as "The Waterfront and Transportation System of Our City," "The Influence of the Press," "Industrial Hazards," and "Problems of the Education of the Future." The Hungarian Free Lyceum attracted members of the community at large as well as Hungarian-Americans. It catered to recent immigrants with special lectures on Americanization and naturalization. Significantly, such lectures came at the end, not at the beginning, of the academic season, when the immigrant audience had already been attracted by other kinds of offerings.

Another educational experiment within the immigrant community was "the Polish University", established in Chicago around 1910 and still functioning a decade later. Begun by a group of fifty Polish socialists as an attempt to reach the new immigrant working class population, its original program consisted of lectures on Polish history and on the problems and future prospects of Poland. Gradually the program expanded to meet a greater variety of educational interests. By 1920 the university had two hundred paid subscribers, and its special lectures, held in a public park, attracted as many as a thousand people at a time. The nature of this university and the reasons for its success are revealed in the following account by one of the founders:

> Some Americans think . . . that we immigrants can comprehend only such thoughts as "I see a cat; the cat is black"—as the teachers in the evening schools make grown men repeat. But the minds of most immigrants are not so feeble as that. For the poor man, America is all work-work-work. We believe in work, all right, but we want thought and education to go along with it. So we took up questions about the beginning of things—the creation of the world, the theory of evolution, primitive man, the development of language. . . . All the lectures were in Polish. . . . Obviously the use of Polish was necessary if such subjects, which are hard

> enough to grasp, anyway, and which involve many scientific terms and fine shades of meaning, were to be got across to our audiences.
>
> Gradually . . . we came to subjects connected with America and with civic problems. But here we do more than have lectures. We go and see for ourselves how civic agencies work. At different times we have visited most of the public departments and institutions of this city. Every little while we take a week-end excursion to some city—not far away—and see how things are run there. . . .
>
> We Socialists have not tried particularly to spread our propaganda. Less than half of the paying members are socialists, and most of the people who attend the lectures are not. We haven't preached "Americanization", either . . . [but] if what America wants is people who think and act for themselves, then we're *doing* Americanization.

While the Polish University promoted Americanization and naturalization only indirectly, between 1914 and 1924 many immigrant communities formed special organizations, often called "Citizens Clubs," devoted solely to those purposes. The relatively small community of Brockton, Massachusetts had an active Lithuanian Citizen's Club of three hundred members. Ukranians in Philadelphia, Portuguese in New Bedford, Syrians in Boston, and other groups organized societies to conduct citizenship classes within their own communities. The activities of such societies were often remarkably successful. An Italian Club in Richmond, Virginia was instrumental in nationalizing hundreds, so that by 1920 all but a small percentage of the Italian population of the city had become naturalized. A Greek Club in Nashville, Tennessee experienced similar success.

Organizations formed primarily to serve non-educational purposes often had strong educational components. Fraternal lodges, mutual benefit societies, and athletic and cultural groups were broadly educational, promoting knowledge of the homeland, general education, and Americanization in varying proportions and with varying methods. The Yiddish Workmen's Circle, a national labor-oriented mutual benefit society with 250 locals in New York City alone, sponsored educational lectures, debates, and original as well as classical theater presentations, distributed its own educational materials, and assisted its members with the naturalization process. The largest Italian fraternal order, the Sons of Italy, with 125 lodges in Chicago alone, had special officials called "orators" to give lectures and help members learn English and become naturalized.

The largest immigrant organizations were the National Alliances, many of which combined the functions of mutual benefit societies with the pursuit of nationalist political aims as well as the furthering of a wide variety of educational objectives in the United States. These organizations often

> kept alive the language and history and culture of the homeland while helping members adjust to their new environments. The publications, meetings, schools, lectures, and other educational activities of the nationalist societies reached hundreds of thousands. The Polish National Alliance alone had a membership in 1921 of more than 125,000. Not the least of the educational benefits of the nationalist societies were the lessons in practical American politics the members learned while lobbying for the interests of the homeland.
>
> Women's groups were active in educational programs, both as auxiliaries to men's organizations and independently. For example, the Italian Women's Club of Albuquerque, New Mexico started an English language school for its members in 1923. The Lithuanian Women's Alliance in Chicago refused to allow its members to participate in its popular mutual benefit society unless they also participated in its educational program, which included English lessons and homemaking The first issue of the official magazine of the Ukrainian Women's Alliance contained articles on childcare, hygiene, and on the Women's Suffrage Movement, urging women to take a greater interest in politics.

To serve these unique needs, the Committee intends that not less than 50 percent of appropriations under the adult immigrant section be reserved for private, non-profit organizations. To insure that programs for immigrant adults are consistent with quality criteria established within the State plans, an applicant for funds under the adult immigrant section must first submit his application to the state education agency, which will forward the application to the Commissioner. The State Education Agency shall review and make recommendations to the Commissioner on the quality of such application, but the committee intends that final authority to approve or reject an application shall rest with the Commissioner. Any applicant whose application is disapproved based upon the State's recommendation may petition the Commissioner for a second review.

PART B—INDIAN EDUCATION

At the request of the Select Committee on Indian Affairs, which has legislative jurisdiction in the Senate for all Indian programs, the committee extended programs for the education of Indian children through October 1, 1983.

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C., May 3, 1978.

Hon. HARRISON WILLIAMS,
Chairman, Committee on Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to request that your Committee favorably consider language in the May 5, 1978, markup session reauthorizing the Indian Education programs in the Department of Health, Education, and Welfare.

As you are well aware, the Select Committee on Indian Affairs is interested in working with your Committee to ensure that Indian children are provided with quality education. For too long, this Federal government has ignored the basic and unique educational needs of Indian students.

Enclosed is specific reauthorization language which would extend the four Indian Education programs. I urge your support.

With best wishes, I am

Sincerely,

JAMES ABOUREZK, *Chairman.*

PART C—TEACHER TRAINING

The committee further agreed to amend the provisions of the Higher Education Act of 1965 dealing with teacher training programs.

One amendment would raise the authorization for such programs from $75 million to $100 million for the 1980 fiscal year. Another would require that, in the event that appropriations exceed $50 million in any fiscal year, not less than $250,000 in grants be awarded to each State, unless no eligible applicant in that State submits an eligible application. Further, the committee amendments would specifically permit teacher center applications from consortia of local educational agencies and would allow statewide programs. Finally, an amendment would establish a procedure for applications for teacher center programs to be submitted directly to the Commissioner, along with the comments and evaluation of the State educational agency, in the event that the State educational agency had not transmitted such application after thirty days.

The committee believes that teacher centers play an essential role in providing quality public education to our Nation's children. With over $125 billion in Federal, State and local funds devoted to education, teacher centers provide an opportunity at a relatively small level of investment, for teachers to tailor educational programs to meet the particular needs of their own students.

The interest in this program is quite strong throughout the Nation. For the upcoming fiscal year, over 1,500 applications are pending. At full funding of the current level of authorizations, only 400 could be approved.

The committee's amendment would allow for increased flexibility to the 1980 fiscal year to meet these needs.

Further, it clarifies other matters contained in existing law. It makes clear that two or more local educational agencies may form a consortium for purposes of applying for a teacher center grant, and that statewide programs are permissible. In small States these should particularly be encouraged.

Also, the amendment makes clear that the Commissioner may consider an application submitted to a State educational agency notwithstanding a State's refusal to approve such an application. Under this language, such applications would be forwarded to the Commissioner, along with the comments and evaluation of the State agency.

TITLE IV—GENERAL EDUCATION PROVISIONS

Title IV of the Committee bill amends the General Education Provisions Act (GEPA), which generally applies to all programs in the Education Division.

Section 401 of the bill expands the authority of the Assistant Secretary for Education currently in Section 402 of G.E.P.A. to deal with the crucial problem of reduction of paperwork in Federal education programs.

The enormous amount of paperwork involved in administering Federal education programs has become a major source of complaints from State and local participants in Federal programs. In the Education Amendments of 1976, Congress took some initial steps to control this paperwork burden by requiring the National Center for Education Statistics to coordinate the collection of information within the Education Division of the Department of HEW.

Despite these efforts, hearings conducted by the committee revealed that paperwork in Federal education programs continues to divert great amounts of staff time at all levels and threatens to harm the effectiveness of Federal aid to education. Data collection activities in the Education Division alone generate an estimated burden of 1.2 million man-hours. States receive 135 to 140 Federal forms annually with hundreds of items to be collected from each school. One State superintendent estimates that 20,000 man-hours are consumed yearly by his staff alone in reporting to the Office of Education.

Recipients of Federal education funds seem particularly disturbed that this burden is so out of proportion to the level of funding provided by the Federal government. One State superintendent noted that Federal education programs are responsible for 84 percent of the data burden in that State, although the Federal government provides only 7 percent of the State's total funds for education.

The committee recognizes the Federal Government's responsibility to collect adequate data to learn whether program objectives are being met and whether funds are being used in ways consistent with the law. As the number of Federal programs and appropriations have grown several-fold in the past decade, so have Federal requirements. The above-mentioned statistics on staff hours consumed in data activities, overwhelming though they may seem, must be weighed against the need for reliable information on which to base public policy, the benefits gained through Federal aid, and the proportions these activities constitute of total staff time.

Nevertheless, the Committee has uncovered instances of inefficient, duplicative and useless Federal data collection which the committee believes can be remedied without harming the integrity of Federal data collection.

PROBLEMS

(1) Lack of Coordination

For administration of its 120 programs, the U.S. Office of Education generates about 90 percent of the total data burden attributable to the elementary and secondary education programs in the Department of Health, Education, and Welfare. However, responsibilities for collection of specific program data is spread throughout the many bureaus, divisions and offices of OE. In addition, information required to evaluate the programs is collected separately within OE by the Office of Planning, Budgeting and Evaluation.

Other agencies in H.E.W. but not in the Education Division also make large demands for information from educational institutions.

According to the Office of Management and Budget, such agencies (exclusive of the Office for Civil Rights) have had data instruments approved by OMB which required over 800,000 annual man-hours to complete. Agencies outside of H.E.W. have also been requiring enormous amounts of data from the education field. The Department of Labor, for instance, has requested data which requires 5 million annual man-hours to complete, and the Veterans' Administration has requested data requiring over 1 million man-hours to complete.

The lack of a central coordinating agency or of an automated indexing system for this entire structure results in the same data being collected repeatedly. Duplication of items cannot be readily checked, and existing items may not be easily retrieved. For example, the Commission on Federal Paperwork found instances where the Labor Department, H.E.W. and IRS had requested identical materials from a educational institution for the purposes of auditing equal opportunity programs.

A second problem stemming from lack of coordination is that inconsistent terminology, definitions and classifications lead to data being collected in slightly different forms. "To the respondent, the Federal government is unitary and its agencies are expected to make common and multiple uses of information in the interest of efficiency and economy," concluded the Commission on Federal Paperwork. Admittedly, each Federal agency must tailor its requests to its specific objectives. However, there are many instances where standardized definitions such as those developed by the National Center for Education Statistics could have been used but were not.

For these reasons, the Committee has adopted an amendment authorizing the Assistant Secretary to appoint or designate a Deputy Assistant Secretary for paperwork coordination and reduction as the coordinating body for all data requests of agencies and institutions whose primary function is education or whenever data requests have as their primary purpose seeking information related to the management of or the formulation of policy relating to Federal education programs. The Center is charged with developing standard definitions and terms, developing an automated indexing system for cataloguing data, and requiring agencies involved in data collection to submit a plan for their activities.

The Committee recognizes that problems could arise from the Deputy Assistant Secretary, an officer of H.E.W., being given the approval power over requests for information from other agencies both within H.E.W. and outside H.E.W. Therefore, the Committee has provided for two procedures which will hopefully avoid inter-agency tensions. First, the Deputy Assistant Secretary must notify the Office of Management and Budget of each data request he is reviewing within 10 days of the receipt of the request for review from another agency. Then, OMB is given the right to exercise its prerogative to have that data request reviewed directly by OMB if a significant data acquisition policy issue is involved. Second, a Federal Education Data Acquisition Council is established to advise Deputy Assistant Secretary on its duties, to review the policies and procedures of the data unit and to hear appeals from decisions if the head of an aggrieved agency seeks to make such an appeal. Since this council consists of members representing the public and the major agencies collecting and using education data, it is hoped that the council will bring into the decisionmaking process all the major parties involved from throughout the Federal government.

(2) *Lack of adequate lead time*

More than any other problem, witnesses complained that they are not given sufficient advance notice of data requests to properly gear up for their collection. Local and State educational agencies normally plan their annual data collection by the January preceding the start of the school year. Yet, often they are not informed of major Federal collections until shortly before or after the start of the school year. The committee has received numerous complaints about Office for Civil Rights forms 101 and 102, which were not provided until the start of the school year or later in 1974, 1975, and 1976.

Reasons for tardiness such as this vary from delays in the Administration's approval process to unrealistic congressional due dates, to States failing to pass on notice to local agencies. The committee bill, therefore, states that no information will be requested of any educational agency that has not been approved and publicly announced by February 15 preceding the start of the school year in which it is to be collected, unless there is an urgent need for the information or very unusual circumstances. The Deputy Assistant Secretary is given authority to waive this procedure for individual studies, under specific circumstances. However, the committee does not intend that this waiver authority be generally applied, therefore defeating the purpose of the section.

(3) *High costs and unrealistic data*

The exact cost of Federal paperwork to educational institutions is difficult to gauge. Estimates such as those made by one superintendent of $9 million per year for a single State and its local agencies cannot begin to express the cost to school children when personnel time is eaten up in non-educational efforts. Generally, the Commission on Federal Paperwork found that information which is not readily retrievable may cost up to $3.50 per data item, per school. Other States say costs can range as high as $20 per item. And because the burden for some types of data gathering has shifted from the Federal level to the State level, even this may be conservative. One State superintendent stated that approximately 10 million items had to be collected from local disctricts in order for the State to present a summarized form of 1,000 items to the Federal government.

High costs alone are not sufficient reason to forego collection of necessary data. However, the costs have escalated to the point where they may be prohibiting the neediest districts from even applying for Federal funds. One local superintendent noted that paperwork required for the Indian Education Act would cost $6,000 to apply for an allocation of only $4,500. Some States say they will not apply for grants under $5,000 because they would lose money in the process.

In summary, the cost of the data must be weighed against the justification for having it. For this reason the committee bill incorporates standards of effectiveness and costliness into the already prescribed standards of lack of redundancy and excessive detail. The committee believes that all of these standards must be applied against data requests if truly justifiable requests are to be approved.

Toward this end, the committee bill also mandates that the data plans of each collecting agency must include a detailed justification of how the information to be collected will be used and an estimate of the manhours to complete and process the information. In addition, Federal funds are made available to help States develop or improve their own computer data systems.

These requirements could mean that the Federal government may no longer be able to justify acquisition of data which is merely "nice to know". By the same token, SEA's and LEA's may have to shoulder responsibility to collect significant information that had previously been unretrieved due to high costs.

(4) *Lack of feedback*

The costs of data are especially frustrating to respondents when they receive little or no feedback or feedback that is useless. In the past, publication of data has frequently been four years late or after plans have already been announced for a second survey. An H.E.W. Region X survey found that one-third of Federal, State and local officials survey felt that H.E.W. reports were useless.

Although the greatest use of data is perhaps made by the collecting agency itself, many other agencies and organizations, including respondents, could profit from the information if it were available in a timely fashion. Each month N.C.E.S. receives approximately 1,000 requests for its educational data.

The committee bill charges the Deputy Assistant Secretary with providing educational agencies and institutions with summaries of data collected insofar as practicable and to the extent permitted by confidentiality agreements.

(5) *Lack of perspective*

The committee was surprised to learn from NCES that some small programs generate paperwork in far greater proportions than their appropriations seem to warrant. For example, one small program in the Office of Education consumes 4 percent of the total man-hours required to respond to Federal forms, yet its appropriation is only .1 percent of the total appropriations for all the relevant OE programs. By contrast, the largest Federal program, title I, with an appropriation that is 36.8 percent of the total OE programs, requires 17.8 percent of the total man-hours. Even when one recognizes that certain types of small, discretionary programs may require more intensive administration and review than State-operated programs, some of the comparisons still seem disproportionate.

While the committee hopes that some of the specific program amendments in other parts of the bill may reduce these disproportions, the committee bill also requires the Deputy Assistant Secretary to publish an annual listing of Education Division programs with the appropriation and data burdens for each program, and an annual listing of the data burden resulting from requests approved for the other Federal agencies within HEW and other departments. By making administrators aware of where their programs stand in the total data collection picture, the committee feels certain that they will be encouraged to streamline requests wherever possible.

In considering alternatives to the paperwork and redtape burdens too often imposed by massive Federal bureaucracy and regulation, the committee debated a modified version of S. 1780, the Optional Educational Simplification Act of 1977, as a potential amendment to the Elementary and Secondary Education Act. The proposed new title would have authorized the Commissioner of Education to certify a demonstration of the consolidation provisions of S. 1780 in no more than six States.

While the measure was defeated in Committee, with a vote of 5 yeas, 8 nays, the committee did authorize a study to determine the feasibility, assets and liabilities of S. 1780 as a demonstration effort in public education policy. The study is to be conducted by the committee and a report is to be issued by the committee not later than 6 months following the filing of the report of this bill in the Senate.

Section 402 of the bill authorizes the National Assessment for Educational Progress.

SUMMARY

The committee bill establishes a statutory base for the National Assessment of Educational Progress and transfers responsibility for the Assessment from the National Center for Education Statistics (NCES) to the National Institute of Education (NIE). The new subsection 405(k) of the General Education Provisions Act provides that NIE is to carry out the Assessment by grant to or cooperative agreement with a nonprofit education organization. A primary purpose of the program is to assess the performance of children and young adults in the basic skills of reading, mathematics, and communications. Specific functions are to be to—

> collect and report at least once every 5 years data assessing the performance of a sample of students at various age or grade levels in each of the areas of reading, writing, and mathematics;
>
> report periodically data on changes in knowledge and skills of such students over a period of time;
>
> conduct special assessments of other educational areas, as the need for additional national information arises; and
>
> provide technical assistance to State educational agencies and to local educational agencies on the use of National Assessment objectives, primarily pertaining to the basic skills or reading, mathematics, and communication, and on making comparisons of such assessments with the national profile and change data developed by the National Assessment.

The education organization through which NIE carries out the National Assessment is to be responsible for overall management of the program. The organization is to delegate authority to design and supervise the conduct of the Assessment to an Assessment Policy Committee established by the organization.

The Assessment Policy Committee is to be composed of 19 persons. Seventeen of these members are to be appointed by the education organization and are to include two representatives of business and industry, three representatives of the general public, and twelve persons representing the education and political communities at the State and local levels. The Director of NIE and a member of the National Council on Education Research appointed by the Director of NIE are to serve as nonvoting ex officio members of the Assessment Policy Committee.

The Assessment Policy Committee is to be responsible for the design of the National Assessment, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of assessment results, and studies to evaluate and improve the form and utilization of the national assessment.

Each learning area assessment is to have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, subject matter specialists, local school administrators, parents, and concerned members of the general public. All items selected for use in the assessment are to be reviewed to exclude items which might reflect racial, sex, cultural or regional bias.

Participation in the National Assessment by State and local education agencies is to be voluntary.

The Director of NIE is to provide for a review of the National Assessment at least once every 3 years. This review is to provide an opportunity for public comment on the conduct and usefulness of National Assessment and is to result in a report to the Congress and to the Nation on the findings and recommendations, if any, stemming from the review.

A separate authorization of appropriations of $10,500,000 for each fiscal year ending prior to October 1, 1983, is provided for NIE to carry out the National Assessment.

Origin of national assessment

The National Assessment of Education Progress was conceived in the mid-1960's as a means of measuring the knowledge, skills, and attitudes possessed by young Americans (aged 9, 13, 17, and 26–35) and to monitor changes (growth or decline) in their educational attainments over time. The need for such a program grew out of a concern about the lack of solid evidence that the educational system was satisfactorily meeting the educational needs of a modern, technological society. While the annual expenditure of public funds for the formal education of young Americans continued to increase, the only readily available measures of educational quality resulting from this public investment of funds were "input" variables such as teacher-pupil rations and per pupil expenditures. No information was available on a nationwide basis about the quality of educational "outcomes"—what students do or do not know and can or cannot do.

As ECAPE began its work, it was very careful to seek the advice and counsel of the educational community. In general, the educational community was supportive of the notion of a national program to monitor the progress of education. However, a great deal of concern surfaced about how such a program would be governed, how the results would be reported, and how the results were to be used. If the program were to be controlled by the Federal Government, if the results were to be reported for States and local education agencies, and if the Federal Government were to establish national performance standards and/or a national curricula based on the results, then the educational community saw the program as an encroachment of the federal government into an area that is generally the responsibility of State and local governments.

Role of the Federal Government

The National Assessment was transferred from the Committee on Assessing the Progress of Education (CAPE) to the Education Commission of the States (ECS) on July 1, 1969, in accordance with the provisions of a Memorandum of Understanding between the U.S. Office of Education and ECS signed by the chairman of ECS and the U.S. Commissioner of Education on June 2, 1969.

The responsibility for monitoring National Assessment was initially assigned to the National Center for Education Research and Development, a unit within the Office of Education. In September 1971 monitoring responsibility was changed to the National Center for Educational Statistics which at that time was a nonstatutory unit within the Office of Education. This administrative action to transfer National Assessment away from the National Center for Education Research and Development and to retain National Assessment within a unit within the Office of Education occurred at the same time that the House Committee on Education and Labor was completing action on H.R. 7248, the bill creating the National Institute of Education. The report of the House Committee on Education and Labor on that bill (House Report No. 92-554, 92d Congress, 1st Session) expresses the committee's intent that all functions of the National Center for Education Research and Development, with the exception of certain areas specified in the report, were to be transferred to the National Institute of Education.

Activities of national assessment

National Assessment has conducted the initial or baseline assessment of each of the 10 learning areas: art, career and occupational development, citizenship, literature, mathematics, music, reading, science, social studies, and writing. It has also completed the second assessments of reading, citizenship, social studies, and mathematics and the third assessment of science to measure changes (growth or decline) in the educational attainments of young Americans. By the end of the 1978-79 school year, it will have completed the data collection for the second assessments of art and music and the third assessments of writing. In addition to these accomplishments, National Assessment conducted a special survey of the functional literacy of 17-year-olds during the spring of 1974 and 1975 for the Right-to-Read program to assess the abilities of high school students to deal with everyday types of reading tasks. By the end of calendar year 1978, the investment to date in National Assessment will have totalled slightly under $51 million. Of the total, the Federal Government has financed approximately 91 percent, with the remaining 9 percent coming from private foundation funds.

COMMITTEE VIEWS

In hearings before the committee in July 1977, the committee was impressed by the extent and quality of the information provided by the National Assessment.

The committee believes that National Assessment should be maintained and strengthened as a major means of monitoring the education attainment of children throughout the nation in the basic skills of reading, mathematics and communication. The committee is also impressed with the extent to which States and local educational agencies use materials developed by National Assessment. In 1978, 32 states had made or were making use of these materials. National Assessment provides technical assistance to states and local education agencies on use of its objectives and on making comparisons of their own assessment results with those of the national profile and change data developed by National Assessment.

As the committee considered authorizing legislation for National Assessment, it found strong support for the project throughout the education community. Even the National Education Association, which has been outspoken in their concerns regarding the dangers of the misuse of achievement testing, expressed support for the National Assessment.

At the same time, the committee has received numerous expressions of concern from chief state school officers, state board members, teachers, local school board members, school superintendents and others throughout the nation that the actions of the Department of Health, Education, and Welfare, and specifically the National Center for Education Statistics, have shown a disregard and insensitivity to the fears of Federal control of the program which led to the unique governing arrangements established in 1969 and to the original Memorandum of Understanding between ECS and the Office of Education.

The provisions of the committee bill are intended to establish by statute the conditions necessary to preserve the continuity and integrity of National Assessment and to make unmistakably clear the committee's intent that the program is to be carried out with extensive involvement of the education community at the state and local levels.

The transfer of National Assessment from the National Center for Education Statistics to the National Institute of Education reflects the committee's belief that the survey research funcions of National Assessment, and the many related functions of this program, are more directly related to the objectives of NIE than to those of NCES.

National Assessment is a survey research project. When it was first conceived it was necessary for new methods and technology to be developed prior to its initial implementation. This development effort has been and remains a continuous activity. As methods are developed and implemented by the National Assessment they are shared with local and State educational agencies and with the general research community. The Assessment also is continuously engaged in developing objectives and items which are used in surveying student knowledge, skills and attitudes. Once developed, objectives are shared with State and local educational agencies. Items, following use in one or more assessments, are also made available for use by the States and local school districts.

The Assessment also disseminates its survey results and provides technical assistance to educational agencies interested in comparing local and state assessments results with the national profile data collected and analyzed by the National Assessment. Therefore, the committee determined that the National Assessment is more appropriately placed within NIE where the Assessment's development, research, dissemination and technical assistance activities can be coordinated with other federally funded research, development and dissemination efforts.

The committee also points out that National Assessment would have been made a part of NIE in 1972 had the Office of Education not taken administrative action in late 1971 to transfer National Assessment out of the National Center for Education Research and Development.

The committee bill deliberately specifies that the legal instrument by which NIE is to carry out the National Assessment should be either a grant or cooperative agreement as these instruments are described in the Federal Grant and Cooperative Assistance Act (Public Law 95–224). A "contract," as this instrument is used in Public Law 95–224, is to be used in a situation in which the intention is for the Federal Government to purchase specific goods and services for Federal use. The use of a contract to carry out National Assessment would place the Federal Government in the position of defining the form, content and process of the National Assessment, and would imply that the Federal Government was the principal, if not sole, user of the products. This kind of arrangement is inconsistent with the need to maintain strong State and local control of National Assessment and for there to be a collaborative relationship between the organization carrying out the Assessment and the Federal Government.

The use of the words, "nonprofit education organization" is not intended to imply the committee's endorsement of any organization or organizations to undertake the National Assessment. The words reflect the committee's concern that the success of National Assessment and the voluntary participation of schools in assessments depend greatly on the confidence of the education community in the organization carrying out the program.

The decision regarding which organization should conduct the National Assessment is to be made by the Director of the National Institute of Education in accordance with criteria he shall develop. These criteria should give consideration both to the technical capability and knowledge of the organization to carry out National Assessment, as well as the evidence of the organization's commitment and capability to provide for extensive involvement of the education community throughout the nation in carrying out the program.

The committee bill states that a primary purpose of National Assessment is to be the assessment of the performance of children and young adults in the basic skills of reading, mathematics, and communications. The committee recognizes that National Assessment has conducted extremely useful assessments in other learning areas. The bill provides that the Policy Committee may decide to conduct assessments in addition to those specifically required in the statute.

The committee expects that the Assessment Policy Committee will seek out the advice and assistance of the education research, higher education and statistical communities in carrying out its responsibilities. This should be done through a technical advisory committee or other such means as the Policy Committee may choose.

The National Assessment has done an impressive job of disseminating the results of its studies and surveys. The committee expects these disseminating activities shall continue these activities, including providing periodic reports to the Congress on the works of the National

Assessment. In addition, the committee intends that both the Institute and the Policy Committee shall take appropriate steps to consult with the committee on a regular basis as to the policies and the results of the Assessment.

The committee bill provides in section 403 that the National Center for Education Statistics shall annually compile and publish a composite profile of each State, indicating the degree to which each State equalizes its resources and expenditures for education. Such profiles shall include disparities in per pupil expenditures among local educational agencies, disparities in wealth neutrality, and such other measures as may be appropriate, including consideration of price differentials and pupil-teacher ratios.

Section 404 of the committee bill clarifies the authority of administrative heads of education agencies.

Section 405 makes permanent the so-called Tydings amendment which authorizes State educational agencies to carry over funds from one fiscal year to another. Another amendment contained in the bill clarifies that the legal requirements which apply to the funds carried over to the succeeding fiscal year are those which are applicable in that succeeding year. This latter amendment was included so that States would not be operating under two completely different sets of rules for funds they are spending on the same program within a fiscal year. Its adoption, however, is not meant to encourage the States in any way to avoid carrying out Federal legislative requirements, such as a percentage sets-aside of funds.

Section 406 amends the evaluation report requirements to clarify that they should include information concerning the extent of compliance with statutory maintenance of effort provisions, and should, in the case of renewal evaluation reports, also include information concerning State and local expenditures, where applicable.

The cornerstone of ESEA and similar Federal aid-to-education programs is the premise that Federal aid must supplement—not supplant—State and local expenditures. The historic intent is that Federal dollars must represent an additional effort for the target children; thus, State and local education program expenditures must be maintained at previous levels.

Present law provides for two very complex procedures to be used in determining whether a State or Local school district is to be permitted a waiver of these maintenance of effort requirements under various Federal programs. The Committee bill simplifies this procedure by deleting what is now called the "very exceptional circumstances" procedure and by making applicable only the "exceptional circumstances" procedure.

Section 407 of the bill provides that the Commissioner is authorized to waive these requirements for a single fiscal year in cases of exceptional or unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State or local educational agency. An example of the latter would be a major industrial or commercial facility leaving the area, thus diminishing the revenue base. However, the decision of a State or local legislature to slash the education budget would not in and of itself constitute a valid decrease of financial resources since this is a voluntary and controllable act; such a reduction is, in effect, a refusal to use revenue resources which are available. Finally, a waiver of maintenance of effort may not be taken into account when computing the fiscal effort in subsequent years. Otherwise, the reduced amount would be a base year in perpetuity.

The committee bill, in section 408, includes language directing the Commissioner of Education and the Director of the National Institute of Education to insure that curriculum and instructional materials are developed in a matter conducive to later dissemination. The committee's intent is to help insure that federally funded materials designed for school use reach their intended audience. To this end, the committee permits USOE and NIE to provide financial assistance to developers of these materials to consult with publishers, state and local education agencies, teachers, administrators, community representatives, and others experienced in dissemination. The bill also instructs USOE and NIE that contracts or grants for dissemination of curriculum or instructional materials should be awarded competitively. The committee understands, however, that some materials, such as those designed for specialized audiences, may be best disseminated by the developers themselves, the Superintendent of Public Documents, or the ERIC clearinghouses.

Section 409 of the committee bill provides a new authority in the Commissioner relating to use of recovered funds. It would authorize the Commissioner, following a recovery of funds in an audit manner, to return to the State or local educational agency up to 75 percent of the recovered funds. A State or local educational agency would not be assured of the relief, since before providing this relief the Commissioner would have to make a finding (1) that the practices leading to the audit action had been corrected; (2) that the State or local educational agency had submitted a plan for the proper use of the funds and for their restoration, for the benefit of the population affected by the misexpenditure; and (3) that the granting back of a portion of the funds would serve to achieve the purposes of the program. The Commissioner could impose any other terms or conditions on the use of those funds as he deems necessary to achieve the purposes of the program. Before entering into a "grant back" arrangement, the Commissioner would be required to publish a notice of his intent to do so in the Federal Register, along with a description of the terms and conditions of the agreement.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., May 15, 1978.

Hon. HARRISON A. WILLIAMS,
Chairman, Committee on Human Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 1753, the Education Amendments of 1978.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

JAMES BLUM
For ROBERT A. LEVINE,
Deputy Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 1753.

2. Bill title: Education Amendments of 1978.

3. Bill status: As ordered reported from the Senate Human Resources Committee, May 9, 1978.

4. Bill purpose: The purpose of this bill is to extend and amend the expiring elementary and secondary education programs. These programs are currently authorized under the Elementary and Secondary Education Act of 1965 (ESEA), the Emergency School Aid Act, Public Law 81–815 and Public Law 81–875 (Impact Aid), and the Adult Education Act, as well as several other related education acts. This bill is subject to subsequent appropriation action.

5. COST ESTIMATE

[By fiscal years; in millions of dollars]

	1979	1980	1981	1982	1983
AUTHORIZATION LEVELS					
Title I: Amendments to the Elementary and Secondary Education Act of 1965:					
Title I—Grants for the disadvantaged	6,205	6,626	7,087	7,597	410
Title II—Basic skills and educational proficiency	69	170	171	172	172
Title III—Special projects	158	136	142	144	146
Title IV—Educational improvement, resources, and support	929	929	929	929	129
Title V—State leadership	204	211	219	229	....
Title VI—Emergency school aid	....	425	425	425	425
Title VII—Bilingual education	232	284	336	386	436
Title VIII—General provisions	....	....	....	....	....
Title IX—Ethnic heritage programs	15	15	15	15	15
Title X—Community schools	78	100	108	100	78
Title XI—Women's educational equity	....	80	80	80	80
Title XII—Nonpublic educational assistance	500	500	500	500	500
Title II: Impact aid	1,472	1,582	1,695	1,817	1,951
Title III: Extension of related education programs:					
Adult education	333	320	346	372	....
Indian education	663	714	766	822	884
Teachers training	100	....	....	....	....
Title IV: General provisions	46	67	92	92	92
Total	11,003	12,158	12,909	13,679	5,315
PROJECTED COSTS					
Title I: Amendments to the Elementary and Secondary Education Act of 1965:					
Title I—Grants for the disadvantaged	459	4,337	6,227	6,963	6,886
Title II—Basic skills and educational proficiency	45	131	166	170	171
Title III—Special projects	102	135	140	143	145
Title IV—Educational improvement, resources, and support	143	678	890	929	847
Title V—State leadership	15	142	199	217	209
Title VI—Emergency school aid	....	72	366	417	425
Title VII—Bilingual education	....	186	326	376	426
Title VIII—General provisions	....	....	....	....	....
Title IX—Ethnic heritage programs	10	14	15	15	15
Title X—Community schools	51	88	104	102	86
Title XI—Women's educational equity	....	52	76	80	80
Title XII—Nonpublic educational assistance	86	235	435	500	500
Title II: Impact aid	957	1,470	1,650	1,768	1,898
Title III: Extension of related education programs:					
Adult education	48	217	301	311	335
Indian education	172	643	725	778	835
Teachers training	65	30	5	....	....
Title IV: General provisions	30	56	81	93	92
Total	2,182	8,487	11,705	12,841	12,950

Note: Figures may not add due to rounding. The costs of this bill fall within budget function 500.

6. Basis for estimate: The cost estimate for S. 1753 reflects both the new and extended authorization levels for the elementary and secondary education programs. When specific authorizations are given, the cost estimate reflects these stated maximum levels. When such sums as may be necessary are authorized, CBO has estimated the maximum authorization levels.

Although S. 1753 does not address the issue of forward or advance funding in the reauthorization of existing programs, CBO has assumed, for the purposes of this cost estimate, that all programs presently forward or advance funded under Part B of the General Education Provisions Act will continue to be so in the future. Therefore, authorized program levels for the fiscal year ending September 30, 1980 for Titles I, IV, and XII of the ESEA of 1965 and the adult education programs will be assumed appropriated in 1979. Similarly, the projected costs reflect the current funding and spending patterns. The specific assumptions for each title are detailed below.

The estimate assumes that the stated and estimated maximum authorization levels are fully appropriated and an enactment date of October 1, 1978.

TITLE I—AMENDMENT TO THE ESEA OF 1965

Title I

Title I includes grants of financial assistance to local educational agencies (LEAs) as well as grants to state agencies to meet the educational needs of educationally disadvantaged children.

The bill authorizes such sums as may be necessary to fund grants to LEAs based on a stated maximum entitlement formula. Each LEA is entitled to 40 percent of the state's per pupil expenditure times the sum of all children in the school district who are: from low income families as defined by the 1970 Census; from AFDC families with income above poverty, as defined in the 1970 Census; or neglected, delinquent, and foster children residing in institutions supported by public funds.

The National Center for Education Statistics (NCES) has estimated that nationwide, about 9.1 million children would be in the above categories in the fall of 1978. This estimate is expected to change only marginally over the life of this bill. The estimated average per pupil expenditure used for the fiscal year 1978 appropriation is $1,308. This figure has been inflated by the CBO projection of increases in the elementary and secondary school cost index in order to determine the maximum entitlement levels for the grants.

The state agency grants are determined in a similar manner as the grants to LEAs but are based on the full time equivalent number of migrant children in a state plus the number of handicapped children, juvenile delinquents, and neglected children residing in state operated facilities or adult correctional centers. For the fall of 1978 this population is estimated by NCES to be approximately 600 thousand. Based on recent trends, CBO estimates this population will grow by 3 to 5 percent annually.

The incentive grant program would allow a state to receive a federal grant of up to 50 percent of the dollar amount of state funds expended for compensatory education programs during the preceding year. Little data are available on the state programs. A 1976 HEW survey, however, showed that about 15 states had some type of compensatory education program, totaling about $350 million. Based on the assumption that few additional states would opt to fund their own programs in the near future, the incentive grants were estimated to cost $200 million annually.

The cost of the urban concentration grants was estimated using the specific authorization level stated in the bill ($400 million in fiscal year 1979). This level was assumed to be the maximum level over the projection period. Since this is a new program authorized for 5 years, it was not assumed to be advance funded. However, due to time lags in writing regulations and approving applications, it was assumed that the fiscal year 1979 funds would not be spent until 1980.

Grants to the territories were assumed to be the maximum allowable under the provisions of this bill.

The projected costs for Title I reflect the advance funding nature of the program—7.4 percent the first year, 62 percent the second, 25.7 percent the third, and the remainder in the fourth year.

Title II

Title II of ESEA is essentially rewritten by this bill. Unlike the current Title II provisions, the authorization levels for these new basic skills and educational proficiency grants are not dependent on the nonfunding of Title IV, and, therefore, provide funds in addition to those authorized under Title IV.

Basic skill grants were assumed to be $100 million annually in fiscal years 1980 through 1983. The specific math grants and the grants for proficiency standards and achievement tests were assumed to total $60 million annually. Since these grants do not directly correspond to the present Title II programs, advance funding was not assumed. The projected costs are based on current year funding which reflects spendout rates of 65 percent the first year, 30 percent the second, and the remainder the third year.

Title III

Title III of ESEA is also essentially rewritten by this bill. For the same reasons as stated above under Title II, the costs of this title are an addition to those authorized under Title IV.

The discretionary project grants are assumed to be $20 million annually, which is similar to many of the other Title III grant levels. The population education grant was assumed to be similar to the environmental education grant at $5 million annually. Since the new grants do not correspond to those presently authorized under Title III, advance funding was not assumed. The projected costs were calculated by applying spendout rates similar to the current year funding rates under Title II.

Title IV

This bill has essentially rewritten Title IV of the ESEA. The authorization levels for the educational improvement, resources, and support grants are those stated in the bill. The library resources and the local educational practices grant programs were assumed to correspond with the current library resources and support and innovation grants under Title IV. Therefore, the new grants were assumed to be advance funded at the current authorization levels for those programs of $800 million annually. The new guidance counseling grants were assumed to be $70 million annually.

All of the programs under this title, except library resources and local educational practices grants, were assumed to be current year funded with spendout rates similar to those stated under Title II. The remaining two programs are assumed to be advance funded with spendout rates similar to the advance funded Title I programs.

Title V

Title V has been essentially rewritten to include all of the state administration funds for the elementary and secondary programs. The grants for state administration and state advisory councils are based on the formulas stated in the bill. Grants for strengthening the state departments of education were assumed to total $10 million annually. Projected costs use spendout rates similar to those in the other current year funded programs under Title II.

Title VI

The authorization levels for state grants under the emergency school aid program are specified in the bill. Compensatory services were assumed to be about $10 million annually, which includes the specified $7.3 million plus an estimated $2.7 million to cover the sums necessary to fund the hold harmless provision.

This program has authorization through fiscal year 1979. Therefore, the impact of this legislation will not occur until fiscal year 1980. The Administration's spendout rates for this program (17 percent the first year, 69 percent the second, 12 percent the third, and the remainder the fourth year) have been used to project total costs.

Title VII

The authorization levels for bilingual education grants are those stated in the bill. CBO has assumed the outyear estimates for the bilingual training grants to be the same as the fiscal year 1981 level.

Bilingual education programs are forward funded and thus all of the projected costs are in the outyears, 80 percent the second year, and the remainder in the third year.

Title VIII

The general provisions under Title VIII have no cost impact.

Title IX

The Title IX ethnic heritage grants are being reauthorized for four years at the stated levels in the bill. The spendout rate for projected costs are similar to those of the current year funded programs under Title II.

Title X

Title X, which authorizes grants for community schools, is a new title being written into the ESEA by this bill. The authorization levels are those stated in the bill. The spendout rate for projecting cost is assumed the same as other current year funded programs.

Title XI

Title XI, which authorizes grants for women's educational equity, is a new title. The authorization level is that stated in the bill. The spendout rate reflects other current year funded programs.

Title XII

New grants for nonpublic educational assistance are being written into the ESEA under this title. The authorization level is that stated in the bill. The spendout rate is assumed to be 17 percent the first year, 50 percent the second year, 30 percent the third year, and the remainder in the fourth year. This relatively slow spendout rate reflects the fact that a new network for the distribution of these grants will have to be established.

TITLE II—IMPACT AID

Title II reauthorizes the impact aid program which provides financial assistance to school districts in areas affected by federal activities. The program authorizes such sums as may be necessary to fund the three tiers. The cost of funding tiers I, II, and III of the basic grants, including the new provision for U.S. post office employees, was estimated by the Congressional Research Service (CRS) to be $1.4 billion in fiscal year 1979. This estimate was inflated by the CBO projection of the increases in the elementary and secondary education cost index to obtain the outyear cost impact of full funding.

Disaster grants were estimated by HEW to be approximately $15 million annually. It has been noted that there was a backlog of up to $500 million in construction grant applications. CBO, therefore, assumed $100 million would be authorized annually for construction grants.

The projected costs reflect the present spending pattern of this program of 65 percent the first year, 30 percent the second, and the remainder in the third year.

TITLE III—EXTENSION OF RELATED EDUCATION PROGRAMS

Adult education

The authorization levels for adult education are those stated in the bill. Since the new elderly education grants are authorized for five years, it was not assumed to be advance funded. However, due to time lags in approving applications, it was assumed that the fiscal year 1979 funds would not be spent until 1980.

The spendout rates for the projected total costs reflect the rates of other advance funded programs under Title I of ESEA.

Indian education program

The Indian education program authorizations are specified in the bill. Full funding of the Indian education grants has been estimated to cost about $625 million in fiscal year 1979. The out year costs have been estimated based on the CBO projection of increases in the cost index for elementary and secondary education.

Teacher training

The $100 million authorization for teacher training under the Higher Education Act of 1965 is extended for one year. The spendout rate reflects that of a current year funded program.

TITLE IV—GENERAL PROVISIONS

This title basically provides new grants for the reduction of paperwork and for development and improvement of state computer data systems. The authorizations are those in the bill. The spendout rate reflects that of other current year funded programs.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 4, 1978, CBO prepared a cost estimate on H.R. 15, the Education Amendments of 1978. That bill contained different amendments and revisions to the elementary and secondary education programs.

9. Estimate prepared by: Deborah Kalcevic.

10. Estimate approved by:

C. G. Nuckols
For James L. Blum,
Assistant Director for Budget Analysis.

Tabulation of Votes Cast in Committee

Pursuant to 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in Committee.

No. 1. Motion by Mr. Chafee to eliminate out-of-county children from eligibility for payments under Public Law 81–874. Rejected: 5 Yeas, 9 Nays.

YEA	NAY
Mr. Pell	Mr. Randolph
Mr. Nelson	Mr. Cranston
Mr. Eagleton	Mr. Riegle
Mr. Hathaway	Mr. Javits
Mr. Chafee	Mr. Schweiker
	Mr. Stafford
	Mr. Hatch
	Mr. Hayakawa
	Mr. Williams

No. 2. Motion by Mr. Chafee to eliminate post office property from eligibility for payments under Public Law 81–874. Rejected: 7 Yeas, 8 Nays.

YEA	NAY
Mr. Pell	Mr. Randolph
Mr. Kennedy	Mr. Cranston
Mr. Nelson	Mr. Riegle
Mr. Eagleton	Mr. Javits
Mr. Hathaway	Mr. Schweiker
Mr. Hatch	Mr. Stafford
Mr. Chafee	Mr. Hayakawa
	Mr. Williams

No. 3. Motion by Mr. Hayakawa to adopt a demonstration program of the consolidation provisions of S. 1780,. Rejected: 5 Yeas, 8 Nays.

YEA	NAY
Mr. Randolph	Mr. Pell
Mr. Schweiker	Mr. Kennedy
Mr. Hatch	Mr. Cranston
Mr. Chafee	Mr. Hathaway
Mr. Hayakawa	Mr. Riegle
	Mr. Javits
	Mr. Stafford
	Mr. Williams

No. 4. Motion by Mr. Pell to report S. 1753, as amended. Adopted: 14 Yeas.

YEA	YEA
Mr. Randolph	Mr. Riegle
Mr. Pell	Mr. Javits
Mr. Kennedy	Mr. Schweiker
Mr. Nelson	Mr. Stafford
Mr. Eagleton	Mr. Chafee
Mr. Cranston	Mr. Hayakawa
Mr. Hathaway	Mr. Williams

Regulatory Impact

In accordance with paragraph V of rule XXIX of the Standing Rules of the Senate, the following statement of the regulatory impact of the bill is made.

S. 1753 extends for 5 fiscal years many existing elementary and secondary education programs in the Education Division of the Department of Health, Education, and Welfare, and creates several new programs. The committee anticipates that the regulatory impact of this bill will be minimal. In fact, the committee has taken several steps to reduce the paperwork requirements of the programs authorized by this bill. This bill consolidates and coordinates many of the existing state educational agency duties and responsibilities into one title, thus reducing the administrative burden these responsibilities have placed on states in the past. Title IV of this bill specifically addresses the issues of paperwork reduction and duplicative regulatory procedures. With the enactment of this title, the committee believes that Federal administrative and paperwork requirements on states and local levels of government will be significantly reduced. Since the bill does not change the substance of existing programs in ways that have any regulatory impact, the committee does not anticipate that any additional individuals or businesses would be regulated as a result of the bill's enactment. Since most existing program regulations would be altered only slightly by the legislation, there should be minimal impact imposed on individuals, consumers, or businesses affected by the bill. As for new programs authorized by this legislation, the committee has attempted to keep program requirements to a minimum.

Throughout the entire legislation, the committee has sought to permit multiyear applications as much as possible in an attempt to alleviate the annual application and reporting procedures that states and local levels of government have had to follow in the past. And where possible, the committee has permitted annual amendments to a multiyear application rather than an annual submission of a new application.

The committee does not believe that the enactment of S. 1753 will affect the personal privacy of individuals affected by the programs contained in it.

Section-by-Section Analysis

TITLE I—AMENDMENT TO TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Section 101. Revisions to title I of the Elementary and Secondary Education Act.

Section 101 of S. 1753 contains a complete rewrite of Title I of the Elementary and Secondary Education Act. The bill preserves the basic Congressional policy contained in the existing statute since its inception in 1965; to provide supplemental financial assistance to local educational agencies to expand and improve programs which contribute particularly to meeting the special educational needs of educationally deprived children residing in low-income areas. The major provisions contained in the bill: (1) clarify and logically structure the present requirements; (2) provide an incentive for states to establish and enact state compensatory education programs; (3) provide additional funds for school districts in counties having unusually high concentrations of children from low-income families; (4) provide additional flexibility to the Commissioner, State educational agencies, and local educational agencies; (5) increase the level pre-expenditure control by the Commissioner and State educational agencies so that problems can be detected before they adversely affect programs: and (6) insure systematic methods for the distribution of Title I funds by local educational agencies among project areas. H.R. 15 reorganizes Title I into seven parts: Part A—Programs Operated by Local Educational Agencies; Part B—Programs Operated by State Agencies: Part C—State Administration of Programs and Projects; Part D—Federal Administration of Programs and Projects; Part E—Payments; and Part F—General Provisions.

Set forth below is a section-by-section description of Title I, as reorganized and amended. The section references in the description are to the new sections of the statute. References to corresponding sections in existing law are also included.

New Section 101. Declaration of policy

New section 101 retains the statement of policy contained in Section 101 of existing law that Title I funds are intended to assist local educational agencies in meeting the special educational needs of educationally deprived children residing in low-income areas. A new sentence has been added to clarify that title I funds are also designed to meet the special needs of children of certain migrant parents, of Indian children, and of handicapped and neglected or delinquent children.

New Section 102. Duration of assistance

New section 102 (section 102 of existing law) extends the period during which payments may be made under this title to September 30, 1983.

PART A—PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

New Section 111. Grants—Amounts and eligibility

New section 111 (section 103 of existing law) generally retains the existing formula for allocating funds under this title. The changes to the existing law are described below. First, provisions relating to payments for insular territories are amended to includes the Northern Mariannas consistent with the recently concluded covenant with that jurisdiction, and the year for "hold-harmless" payments is updated from 1973 to 1976. Second, this section includes revisions to the existing law concerning grants to Puerto Rico to provide that the grant for which Puerto Rico will be eligible to receive under this section will be adjusted according to the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure in any of the fifty states.

Third, a new provision is included permitting the Commissioner to grant authority for one year periods to States to make direct allocations to school districts if the exact same formula factors are used and if there is an appeal process. Fourth, the provision limiting the count of AFDC children to two-thirds of such numbers is amended to remove this limitation.

New Section 112. Treatment of earnings for purposes of aid to families with dependent children

New section 112 is identical to section 149 of existing law.

New Section 116. Incentive grants

New section 116 is designed to encourage states, through matching grants, to establish and expand their own compensatory education programs. Part B of existing law would be repealed. Under the amendment, states would be given grants of one Federal dollar for each two dollars of State funds which are used for compensatory education programs (a) which satisfy the criteria contained in the bill for purposes of qualifying for an exemption from the excess costs and comparability provision and (b) in which at least 50 percent of such state funds are used in areas having high concentrations of children from low-income families. The total amount of funds under this section for any fiscal year for each State would be limited to 10 per cent of the State's total entitlement under Section 111 for such fiscal year. Funds made available under this section to local educational agencies must be used for programs and projects undertaken pursuant to applications submitted under section 121 and are subject to all other requirements in subpart 3 of Part A. If funds appropriated are insufficient to pay the total amounts which local educational agencies are entitled, the amount paid to such agencies must be ratably reduced.

New Section 117. Grants for local educational agencies located in Counties with especially high concentrations of Children from low-income families

New section 117 would provide that local educational agencies in tional funds to local educational agencies within counties with especially high concentrations of children from low-income families to provide more effective programs of instruction, especially in the basic skills of reading, writing and mathematics.

New section 117 would provide that local educational agencies in a county would be eligible to receive additional grants if the number of children from low-income families aged 5–17 residing within the county exceeded 5,000 or 20 percent of the total number children aged 5–17 in such county. The amount appropriated would be allocated among counties in proportion to the amount by which the number of children from low-income families exceeds those threshold amounts. The provisions of this section would not apply to Guam, American Samoa, the Virgin Islands, the Northern Marianas, and the Trust Territory of the Pacific Islands. The funds made available under this section would be added to a local educational agency's allocation under section 111 and would be used for the same purposes.

New Section 121. Application

New section 121 (section 141 (a) of existing law) requires applications to be submitted by the local educational agency once every three years rather than on an annual basis, as is presently required. Changes and amendments to the application must be submitted to the State educational agency for approval.

New Section 122. Designating school attendance areas

New section 122 consolidates provisions found in section 141(a)(1)(A) and 141(a)(13) of existing law and codifies long-standing OE policies pertaining to the ranking of school attendance areas. In general, school districts must rank, from highest to lowest, areas in accordance with the incidence of children from low-income families. However, this amendment authorizes school districts to: (a) use enrollment data in certain schools in lieu of area residency, (b) continue eligibility for certain schools and areas for a three-year period even if they no longer satisfy the applicable eligibility requirements, (c) skip higher ranked schools where lower ranked schools have a substantially higher incidence of educational deprivation than the higher ranked schools, and (d) skip higher ranked schools receiving services of the same nature and scope from non-Federal sources as would otherwise have been provided under Title I.

New Section 123. Children to be served

New section 123 retains the requirement contained in section 141 (a)(1)(A) of existing law that Title I funds be used to meet the needs of educationally deprived children and codifies long-standing OE policy concerning the targeting of children where there are insufficient funds to meet the needs of all such children. The amendment prescribes a general rule and provides for three exceptions to this general rule. In general, school districts must designate for participation in programs children who are in greatest need of assistance. However, the amendment authorizes school districts to: (a) continue eligibility for children who are no longer in greatest need of assistance but who are still educationally deprived, (b) continue eligibility for the remainder of the year for children who have been transferred in mid-year to ineligible areas and (c) skip greatest-need children receiving services of the same nature and scope from non-Federal sources as they would otherwise have received under Title I.

New Section 124. Requirements for design and implementation of programs

New section 124 consolidates provisions found in existing law pertaining to program design and implementation (Section 141(a)(1), 141(a)(1)(B), 141(a)(6), 141(a)(10), 141(a)(2), 141(a)(3)(A)), and adds six new provisions. The amendment pertaining to needs assessment specifies the two purposes of the provision. The first purpose is to generate data on which to base decisions concerning the designation of program participants. The second purpose is to generate data on which to base program design decisions, including the establishment of program objectives. The amendment pertaining to coordination specifies that school districts are expected to (a) avoid using Title I funds for services that could be provided from other sources and (b) consider suggestions and offers of assistance made by other concerned agencies. The bill also would require: that teachers be included in planning Title I programs; that parents of children participating in Title I programs be informed of the instructional goals of the program; and that local educational agencies consider including in their Title I programs components designed to sustain achievement gains beyond the school year in which a program is conducted.

New Section 125. Parental involvement

New section 125 (section 141(a)(14) of existing law) retains the general requirement for involving parents in the planning, implementation, and evaluation of Title I programs. Councils must: (a) be composed of not less than 10 members, (b) meet a sufficient number of times per year at locations chosen by the council; and (c) have members elected for set terms. Applications must describe the program of training for parent council members and provide access to appropriate information. The section contains a new authorization of funds for parent workshops and model training programs.

New Section 126. Funds allocation

New section 126 consolidates the various provisions contained in existing law ensuring that children participating in Title I programs and project areas receive their fair share of State and local funds. New section 126(a) contains the maintenance of effort provision found in section 143(c)(2) of Title I and section 431(b)(2) of the General Education Provisions Act. The new section 126(a) repeals the very exceptional circumstances exemption but retains, in modified form, the exceptional circumstances exemption. Under the amendment, where exceptional circumstances are found to exist, the Commissioner may waive, for one year only, the provision and reduce the school district's allocation in proportion to the amount expended by such agency which was less than the amount expended for the second preceding fiscal year.

New section 126(b) is the excess costs provision, contained in section 141(a)(1) of Title I and section 403(17) of Public Law 81-874, of existing law. The new provision retains the definition of the term;

however, exemptions from the excess costs provision presently contained in the definition are now set forth in section 131.

New section 126(c) contains the supplement, not supplant, provision presently found in section 141(a)(3)(B). No changes have been made with respect to the distribution of regular state and local funds. New section 126(d) clarifies the application of the supplement, not supplant concept to state and local special funds, e.g., state compensatory funds. The new section 126(d) requires that educationally deprived children, in the aggregate, residing in areas and schools eligible for assistance under Title I, receive their fair share of special state and local funds.

New section 126(e) retains the comparability provision in section 141(a)(3)(C) of existing law that each project area school receive services which are comparable to those provided to non-project area schools. Section 126(e) adds a new sentence which requires that school districts demonstrate comparability where all schools are designated project area schools.

New Section 127. Access to information

New section 127 continues access to information (section 141(a)(8) of existing law) provisions.

New Section 128. Complaint resolution

New section 128 (no comparable provision in existing law) sets forth minimum standards respecting the establishment of complaint resolution procedures.

New Section 129. Individualized plans

New section 129 retains the provision found in section 141(b) of existing law but deletes the reference to "written" plans.

New Section 130. Participation of children enrolled in private schools

New section 130 amends section 141A of existing law by (1) requiring that spending for educationally deprived nonpublic school children be equal, consistent with their numbers and educational need, to spending for educationally deprived children attending public schools; (2) replacing the existing "on the record" hearing procedure with a streamlined "show cause" proceeding; (3) and providing a clear grant of authority to the Commissioner to withhold from the allocation to a State or local educational agency, funds necessary to pay the cost of services to children who attend nonpublic schools, pending resolution of a complaint or investigation concerning the failure to provide services to which those children are entitled.

New Section 131. Exclusions from excess costs and comparability provisions for certain special State and local programs

New section 131 clarifies the exclusions from the excess costs and comparability provisions permitted by section 403(17) of Public Law 81-874 of existing law and makes certain changes. First, the amendment repeals the so-called "mini-comparability" report which presently must be filed before expenditures under bilingual and handicapped programs may be excluded. Second, the amendment requires that advance determinations be made by the Commissioner or State Educational Agency that state or local programs, as legislated, satisfy the requirements for the exemptions. Finally, the amendment extends the categories of programs which qualify for the exclusions to include certain state programs being phased into full operation by a date certain

New Section 132. Limited exemption to nonsupplanting requirement where certain special programs for educationally deprived children are fully funded

The amendment creates a limited exemption from the "supplement, not supplant" requirement, where the amount of State or local compensatory education funds (satisfying the conditions for an exemption from the excess costs and comparability provisions) used in areas eligible for assistance under Title I when added to the amount of Title I funds provided to the local educational agency equals or is greater than the amount of Title I funds a local educational agency would have received that year had Title I been fully funded. Under this limited circumstance, the local educational agency may use additional state compensatory education funds exclusively in non-Title I areas until those areas are brought up to the same level of total compensatory education funding (state and federal) provided, per program participant in the Title I areas. After the non-Title I areas are brought up to this level, the "supplement, not supplant" requirement is fully applicable to the distribution of any additional state compensatory education funds.

New Section 133. Schoolwide projects

New Section 133 (no comparable provision in existing law) permits schools having 80 percent or higher concentrations of children from low-income families to utilize Title I funds to design a single Title I program for all children in the school, provided that the school district satisfies certain conditions. First, the amendment provides that the school district must (a) allocate Title I funds, at a minimum, in an amount equal to the per pupil amount allocated to Title I children in schools which are not highly concentrated and (b) contribute state or local supplementary funds in an amount, per child who is not educationally deprived, equal to the amount provided per educationally deprived child attending the highly concentrated school. Second, the highly concentrated school must develop a school plan, approved by the State educational agency and the parent advisory council for such school established under Section 125 which specifies, among other things, the steps it plans on taking for meeting the needs of the educationally deprived children. The average per pupil amount of Federal, State, and local compensatory education funds must be at least 32 percent of the average per pupil expenditure in the local educational agency, unless the State educational agency determines that a schoolwide program would be of equal or greater efficiency, measured in terms of cost and would not cause a dilution in services to eligible children from low-income families. If the plan is approved, the local educational agency is relieved, with respect to such school, of (a) any prohibitions against commingling and (b) any demonstration that services provided with Title I funds are supplementary to the services regularly provided in the school.

New Section 134. Noninstructional duties.

New Section 134 (no comparable provision in existing law) permits personnel paid entirely by Title I funds to assume duties such as hall and cafeteria duty normally performed by similarly situated personnel paid by state and local funds so long as the amount of time Title I—paid teachers spend on non-Title I-rated duties does not exceed the proportion of time spent on such duties by non-Title I—paid teachers or 10 percent, whichever is less.

PART B—PROGRAMS OPERATED BY STATE AGENCIES

New Section 141 and Section 142. Programs for migrant children (Grants—entitlements and amounts; program requirements)

New Section 141 (Section 122 of existing law) generally retains the current formula for allocating Title I funds for programs for migrant children. New Section 142 (Section 122(a)(1) of existing law) prescribes the applicable requirements applicants must satisfy in order to receive Title I funds. A new section is added authorizing funds to the Commissioner to make grants and contracts to encourage inter-State coordination.

New Section 146 and Section 147. Programs for handicapped children (amount and eligibility; program requirements)

New Section 146 (Section 121 of existing law) generally retains the current formula. New Section 147 (Section 121 of existing law) prescribes the program requirements applicants must satisfy in order to receive Title I funds.

New Section 151, Section 152, and Section 153. Programs for neglected and delinquent children (amount and entitlement; program requirements transition services)

New Section 151 (Section 123 of existing law) generally retains the current formula, except with respect to Puerto Rico (see Section 11). New Section 152 (Section 123 of existing law) prescribes the program requirements applicants must satisfy in order to receive Title I funds. New Section 153 authorizes funds for transition services, to assist children leaving State institutions and entering local programs.

New Section 156. Reservation of funds for territories

New Section 156 is identical to Section 124 of existing law, except the Northern Marianas is added to the list of insular territories.

New Section 157. Minimum payments for State operated programs

New Section 157 (Section 125 of existing law) reduces the minimum amount a state receives in the state-operated programs for migrant and neglected and delinquent children from 100 percent to 85 percent of the amount the state received in the prior fiscal year.

PART C—STATE ADMINISTRATION OF PROGRAMS AND PROJECTS

New Section 161. Submission of state applications

New Section 161 (Section 142 of existing law) retains the requirement that the state submit an application to the Commissioner.

New Section 171. Reporting

New Section 171 generally retains the reporting requirements contained in Section 142(a) (3) of existing law.

New Section 172. Recordkeeping, Fiscal Control, and Fund Accounting

New Section 172 generally retains the requirements contained in Section 142(a) (2) of existing law.

Nwe Section 173. Prohibition on Consideration of Federal Aid in Determining State Aid

New Section 173 retains the prohibition on consideration of federal aid in determining state aid contained in Section 143(a) (1) of existing law.

PART D—FEDERAL ADMINISTRATION OF PROGRAMS AND PROJECTS ASSISTED UNDER TITLE I

New Section 181. Applicability

New Section 181 explains that, in addition to requirements contained in Title I, the requirements pertaining to federal administration contained in the General Education Provisions Act are equally applicable.

New Section 182. Approval of applications

New Section 182 (Section 142(a) of existing law) retains existing law requiring Commissioner approval of state applications and adds certain new requirements. Under the amendment, the Commissioner may not approve a state application until he has made specific findings in writing that the state has or will satisfy all applicable requirements, including the requirement that the state submit a monitoring and enforcement plan.

New Section 183. Program evaluation

New Section 183 generally retains the provisions contained in Section 151 of existing law.

New Section 184. Complaint resolution

New Section 184 (no comparable provision in existing law) establishes minimum standards for the establishment of complaint resolution procedures at the Federal level.

New Section 185. Audit and audit resolution

New Section 185 (no comparable provision in the existing law) clarifies HEW's legal authority and responsibility to audit applicant programs. In addition, the bill specifies certain minimum standards concerning the resolution of outstanding audits. First, the Commissioner is required to adopt procedures to assure timely resolution of audits, including timetable and an audit appeals process. Second, the amendment specifies that misspent funds must be repaid from funds derived from non-federal funds or federal funds no accountability for which is required to the Federal government.

New Section 186. Withholding of payments

New Section 186 (Section 146 of existing law) retains existing authority to withhold Title I funds and incorporates into the Title I statute the authority to suspend Title I payments pending a hearing. Such authority is presently contained in the General Education Provisions Act withholding provision. The bill also authorizes the Commissioner to enter into a compliance agreement in lieu of withholding, including one for partial compliance, where full compliance is not feasible until a future date.

New Section 187. Policy manual

New Section 187 (no comparable provision in existing law) would require that OE develop and disseminate a policy manual to: (a) assist applicants in preparing applications, meeting applicable program requirements, and enhancing the quality of programs, (b) assist state educational agencies in achieving proper and efficient administration of programs, (c) assist parent advisory councils in performing their responsibilities, and (d) ensure that federal officials uniformly interpret, apply, and enforce Title I requirements throughout the country. The manual would contain, among other things, an explanation of the purpose of each requirement and how requirements interrelate, a statement of the procedures to be followed by the federal government respecting the proper and efficient administration of its functions, model application forms and monitoring instruments, and models describing legal program designs including specifications concerning the constitution of a "sufficient audit trail."

New Section 188. Enforcement report

New Section 188 requires the Commissioner, in the first, third, and fifth fiscal years after enactment of the bill, to submit to the Congress a report concerning enforcement of title I, including an analysis of State applications, a description of monitoring and audit activities, a summary of findings of on-site monitoring activities, an analysis of audits undertaken and their resolution, and a report on the complaints made to the Commissioner and the action taken by him to resolve them.

PART E—PAYMENTS

New Section 191. Payment methods

New Section 191 is identical to Section 143(a)(1) of existing law.

New Section 192. Amount of payments to local educational agencies

New Section 192 is identical to Section 143(a)(2) of existing law.

New Section 193. Adjustments where necessitated by appropriations

New Section 193 is similar to Section 144 of existing law.

Section 194. Reservation of funds

New section 194 provides that, of the amounts appropriated for title I, $400 million (or the amount appropriated for the preceding fiscal year, whichever is greater) is reserved for concentration grants under section 117, and at least as much as was appropriated for incentive grants under section 116 is similarly reserved.

PART F—GENERAL PROVISIONS

New Section 195. Judicial review

New Section 195 is identical to Section 147 of existing law.

New Section 196. National advisory council

New Section 196 is identical to Section 148 of existing law.

New Section 197. Limitation on grant to Puerto Rico

New Section 197 amends Section 843(d) of Public Law 93–380 to provide that the maximum payment to Puerto Rico under Title I would be 150 percent of the amount it received in the preceding fiscal year. Any excess over such an amount will be used to ratably increase the allocations under subpart 1 of Part A of the other local educational agencies in the country whose allocations do not exceed the maximum amount for which they are eligible under Section 11.

New Section 198. Definitions

New Section 198 incorporates most of the definitions presently contained in Section 403 of Public Law 81–874 and adds definitions for the terms "schol attendance area" and "project area". Under new Section 198 the term "local educational agency" no longer includes state agencies operating programs for handicapped, neglected, and delinquent children.

Section 101(b). Conforming amendments

Section 101(b) of the bill contains several conforming amendments, including a provision which would remove Title I of the Elementary and Secondary Education Act from the Impact Aid legislation (presently Title I of ESEA is officially designated "Title II" of Public Law 84–874).

Section 102 contains a complete re-write of title II of the Elementary and Secondary Education Act. This section, in effect, establishes a new program in Basic Skills and Educational Proficiency as title II of the Elementary and Secondary Education. This new title will have two parts. Part A will support programs in basic skills instruction. Part B will support programs in Educational Proficiency Standards.

New Section 201. Purpose

This section states that the purpose of this new title is to assist Federal, State, and local educational agencies in developing, coordinating, and expanding programs in basic skills.

New Section 202. Applications

This section establishes the application procedure to be followed for assistance under Part A of this new title.

New Section 203. Acceptance of gifts

This section authorizes the Secretary of Health, Education, and Welfare to accept gifts for activities to be carried out under this new title.

New Section 204. Grants and contracts

This section authorizes the Secretary to make grants to, and enter into contracts with, State and local educational agencies, and other public and private nonprofit agencies, organizations, and institutions to carry out the purposes of this new title.

New Section 205. Instruction in basic skills

This section authorizes the Secretary to provide assistance designed to demonstrate improved delivery of instructional services in the areas of reading, mathematics, and oral and written communication.

New Section 206. State programs to improve achievement in basic skills

This section authorizes the Secretary to provide financial and technical assistance to State implement comprehensive statewide plans for improving the skills of children, youths, and adults in reading, mathematics, and oral and written communication.

New Section 207. Parental participation in basic skills instruction

This section authorizes the Secretary to support activities aimed at enlisting the assistance of parents and volunteers in basic skills programs.

New Section 208. Use of technology in basic skills instruction

This section authorizes the Secretary to support development and demonstration activities related to the improved use of television and other technology to assist in the basic skills instruction of children.

New Section 209. Involvement of private organizations

This section authorizes the Secretary to provide assistance and information to private non-profit agencies, organizations, and institutions that have programs in basic skills instruction.

New Section 210. Collection and dissemination of information relating to basic skills programs

This section authorizes the Secretary to collect and analyze information concerning the results of activities carried out under this title and under Part C of Title IV of the Elementary and Secondary Education Act.

New Section 211. Study

This section authorizes the National Institute of Education to undertake a survey of teachers of basic skills to identify their level of training, the teaching methods they use in teaching basic skills, and the relative effectiveness of such methods in meeting the educational needs of children.

New Section 212. Coordination

This section authorizes the Secretary to coordinate the program assisted by this title with programs assisted under Title I and Title V of this Act, Title V of the Economic Opportunity Act of 1964, and Title V of the Higher Education Act of 1965.

New Section 213. Appropriations

This section authorizes such sums as may be necessary appropriations for fiscal year 1980 and for each of the three succeeding fiscal years to carry out the provisions of Sections 201 through 212.

New Section 214. Inexpensive book distribution program for reading motivation

This section authorizes the Commissioner to contract with a private non-profit group or public agency for the support and establishment of reading motivational programs which include the distribution of inexpensive books to students. There is authorized to be appropriated for this section $9 million for fiscal year 1979, $10 million for fiscal year 1980, $11 million for fiscal year 1981, and $12 million for each of the 2 succeeding fiscal years.

New Section 215. Special mathematics program

This section authorizes the Commissioner to make grants to and contract with one or more private non-profit agencies, institutions, or organizations in order to conduct special mathematics programs for children. There is authorized to be appropriated such sums for fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this section.

New Section 221. Grants to implement educational proficiency standards

Subsection (a) of this section authorizes the Commissioner to make grants to State educational agencies to carry out a plan approved by the Commissioner to assist students in achieving levels of educational proficiency based on basic standards established by the State educational agency. The Commissioner is also authorized to make grants for this purpose to local educational agencies if such agencies are located in a State in which the State educational agency has not submitted an application for a grant under this section.

Subsection (b)(1) of this section establishes the application procedure to be followed for assistance under this section.

Subsection (b)(2) of this section describes the elements to be contained in an educational proficiency plan under this section.

Subsection (c) of this section authorizes the Commissioner to make grants under this section only if certain requirements are met.

Subsection (d) of this section makes it clear that nothing in this section shall authorize the Commissioner to impose tests on State educational agencies or local educational agencies, and that no such agency shall be compelled in any way to apply for funds under this section.

Subsection (e) of this section authorizes to be appropriated such sums as may be necessary for fiscal year 1979 and for each of the four succeeding fiscal years to carry out the provisions of this section.

New Section 222. Achievement Testing Assistance

Subsection (a) of this section authorizes the Commissioner to provide assistance to State and local educational agencies in order that they might develop their capacity to conduct achievement testing programs in the basic skills.

Subsection (b) of this section authorizes to be appropriated such sums as may be necessary to carry out this section for the fiscal year ending September 30, 1979 and for each of the three fiscal years thereafter.

Section 103 contains a complete re-write of Title III of the Elementary and Secondary Education Act. This section establishes a new program of Special Projects as Title III of the Elementary and Secondary Education Act. Part A of this new title represents general provisions that are applicable to all of the programs supported under this title, and Parts B through K represent specific individual programs to be supported under this title.

New Section 301. Statement of purpose

This section authorizes the Commissioner to support experiments with new educational and administrative methods, techniques, and practices; to support special projects aimed at meeting special or unique educational needs or problems; to support problems placing special emphasis on national educational priorities; and to disseminate information to State and local educational agencies.

New Section 302. Grants and contracts authorized

Subsection (a) of this section authorizes the Commissioner to make grants to contract with State and local educational agencies, public and private non-profit agencies, organizations, and institutions, and individuals to carry out the purposes of this new title.

Subsection (b) requires that the needs of non-profit private elementary and secondary school children be taken into account as designing proposals under this title, and that such children are provided, to the maximum extent feasible, the opportunity to participate in the proposed activity on a basis comparable to that provided public school children.

New Section 303. Commissioner's discretionary projects

Subsection (a) of this section authorizes the Commissioner to carry out discretionary projects which are consistent with the purposes of this title.

Subsection (b) of this section authorizes the Commissioner to make grants of up to $25,000 to teachers, administrators, other educational personnel, and parent organizations to carry out innovative programs consistent with the purposes of this title.

Subsection (c)(1) of this section authorizes to be appropriated such sums as may be necessary for fiscal year 1980 and for each of the three succeeding fiscal years for programs under the Commissioner's Discretionary Project authority.

Subsection (c)(2) of this section authorizes the Commissioner a percentage of funds appropriated under this title to carry out programs under his Discretionary Project authority.

New Section 311. Metric education—short title; statement of purpose

This section provides that the new Part B of Title III be cited as the "Metric Education Act of 1978," and states that the purpose of this part is to encourage and support metric education programs.

New Section 312. Program authorized

This section authorizes the Commissioner to carry out a program of grants and contracts to encourage educational agencies and institutions to prepare students to use the metric system of measurement.

New Section 313. Application

This section establishes the application procedure to be followed for assistance under Part B of this new title.

New Section 314. Authorization of appropriations

This section authorizes to be appropriated $20,000,000 for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of Part B of this new Title III.

New Section 321. Arts in education—short title; statement of findings

This section provides that the new Part C of Title III may be cited as the "Arts in Education Act of 1978", that arts are essential to every student's full education, and that the purpose of this new Part C will be to encourage and support programs that stress the role of arts in elementary and secondary education.

New Section 322. Program authorized

This section authorizes the Commissioner to carry out a program of grants and contracts in order to achieve the purposes of this part.

New Section 323. Authorization of appropriations

This section authorizes to be appropriated $20 million for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of Part C of this new Title III.

New Section 331. Consumer education—short title; statement of findings

This section provides that the new Part D of Title III may be cited as the "Consumer Education Act of 1978", and finds that Federal involvement is needed to encourage and support consumer education programs throughout the country.

New Section 332. Office of consumer education

This section provides that with the Office of Education there shall be an Office of Consumers' Education, headed by a Director of Consumers' Education, who shall be appointed by the Commissioner in accordance with Title V of the United States Code.

New Section 333. Program authorized

This section authorizes the Commissioner to make grants to and contracts with institutions of higher education, State and local educational agencies, and other public and private non-profit agencies, organizations, and institutions, including libraries to carry out the purposes of the Part D.

New Section 334. Application

This section establishes the application procedure to be followed for assistance under this new Part d of Title III.

New Section 335. Reports and evaluations

This section requires that each recipient of funds under Part D shall make such reports and evaluations as the Commissioner shall by regulation prescribe.

New Section 336. Authorization of appropriations

This section authorizes $20 million for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983 to be appropriated to carry out the purposes of this new Part D of Title III.

New Section 341. Youth employment—program authorized

This section authorizes the Commissioner to carry out a youth employment program under this new Part E of Title III, the purpose of which shall be to prepare children to take their place as working members of society.

New Section 342. Authorization of appropriations

This section authorizes $7,500,000 for fiscal year 1979 and for each succeeding fiscal year ending prior to 1983 to be appropriated to carry out this new Part E of Title III.

New Section 346. Law-related education—short title; declaration of findings

This section provides that the new Part F of Title III may be cited as the "Law-Related Education Act of 1978," and find that there is a need for Federal support of law-related education programs.

New Section 347. Program authorized

This section authorizes the Commissioner to carry out a program of grants and contracts to encourage State and local educational agencies and other public and private non-profit agencies, organizations, and institutions to provide law-related education programs.

New Section 348. Authorization of appropriations

This section authorizes $15 million for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to be appropriated to carry out the purposes of this new Part F of Title III.

New Section 351. Environmental education—short title; declaration of findings; purpose

This section provides that the new Part G of Title III may be cited as the "Environmental Education Act of 1978," declares Congressional findings, and provides that the purpose of this new Part G is to encourage and support educational programs aimed at enhancing environmental quality and maintaining ecological balance.

New Section 352. Office of Environmental Education

This section establishes with the Office of Education an Office of Environmental Education, headed by a Director of Environmental Education who shall be compensated at a rate not to exceed that of GS 17.

New Section 353. Program authorized

This section authorizes the Commissioner to carry out a program of grants and contracts in order to achieve the purpose of this new Part G, and describe activities that may be funded.

New Section 354. Application

This section establishes the application procedure to be followed for assistance under this new Part G of Title III.

New Section 355. Technical assistance

This section authorizes the Secretary of Health, Education, and Welfare to provide technical assistance to eligible agencies to enable such agencies to carry on education programs related to environmental quality and ecological balance.

New Section 356. Special grants

This section authorizes the Commissioner to make special grants of not more than $10,00 to eligible applicants for programs in environmental education.

New Section 357. Administration

This section authorizes the Commissioner to utilize the services and facilities of other Federal agencies and of other public or private agencies and institutions in order to administer the new Part G of Title III.

New Section 358. Authorization of appropriations

This section authorizes $5 million to be appropriated for fiscal year 1979, $7 million for fiscal year 1980, $9 million for fiscal year 1981, $11 million for fiscal year 1982, and $13 million for fiscal year 1983, to carry out the provisions of this new Part G of Title III. For each fiscal year, not more than $500,000 of the sums appropriated shall be available for carrying out section 353(b)(2)(H).

New Section 361. Health education—short title; declaration of purpose

This section provides that the new Part H of Title III may be cited as the "Health Education Act of 1978," and that the purpose of this new part shall be to encourage and support health education programs.

New Section 362. Program authorized

This section authorizes the Commissioner to make grants to State and local educational agencies to establish and support health education programs.

New Section 363. Application

This section establishes the application procedure to be followed for assistance under this new Part H of Title III.

New Section 364. Authorization of appropriations

This section authorizes $20 million to be appropriated for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of this new Part H of Title III.

New Section 371. Correction education—short title

This section provides that the new Part I of Title III may be cited as the "Correction Education Demonstration Project Act of 1978."

New Section 372. Program authorized

This section authorizes the Commissioner to make grants to carry out the purposes of this new Part I of Title III.

New Section 373. Technical assistance

This section authorizes the Commissioner to appoint special or technical committees to advice him regarding the education of persons to be benefited by this program, and to secure the advice and recommendations of other Federal officials.

New Section 374. Authorization of appropriations

This section authorizes $5 million to be appropriated for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of this new Part I of Title III.

New Part J. Biomedical sciences

This new part creates a new program of grants to institutions of higher education for the purpose of mounting programs to educate, motivate and encourage students from economically disadvantaged backgrounds to pursue training at the undergraduate and graduate level in biomedical sciences. These programs must be carried out in cooperation with public secondary school systems and must provide offerings during the school year for public and private schoolchildren of courses in biomedical sciences and related offerings during the summer months. Forty million dollars is authorized for fiscal year 1979 and such sums are authorized for the three succeeding years for this purpose.

New Part K. Population education

This new part creates a new program of grants to and contracts with institutions of higher education, State, and local educational agencies, research organizations, and other public and private agencies, organizations, and institutions to implement a program of population education in elementary and secondary schools. The Commissioner of Education is authorized to administer the program, in consultation with the Deputy Assistant Secretary for Population Affairs established by Section 3 of the Family Planning Services and Population Research Act of 1970. There are authorized to be appropriated such sums as may be necessary for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the Provisions of this part.

Section 103(b) repeals, effective September 30, 1979, various sections of the Education Amendments of 1974.

Section 104 contains a complete re-write of Title IV of the Elementary and Secondary Education Act. The section extends certain programs authorized under existing Title IV and makes certain amendments to that title. The new Title IV shall be composed of five parts; Part A—General provisions which apply to all of the parts of the title; Part B—Instructional Materials and School Library Resources; Part C—Improvement in Local Educational Practices; Part D—Guidance, Counseling, and Testing; and Part E—Education of Gifted and Talented Children.

PART A—GENERAL PROVISIONS

This part states that the purpose of Title IV is to strengthening the quality of elementary and secondary education by supporting local activities designed to improve local educational practices, to assist local educational agencies in improving their programs, to assist local educational agencies in acquiring books, materials, library resources, and instructional equipment, to strengthen and improve guidance, testing and counseling services, and to assist State and local educational agencies in developing gifted and talented programs.

This part also establishes authorizations of appropriations for Parts B through E of this title. For Part B, there is authorized to be appropriated such sums as may be necessary for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983. For Part C, there is also a such sums authorization of appropriations for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983. For subpart 1 of Part D, there is authorized to be appropriated $50 million for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983. For subpart 2 of Part D, there is authorized to be appropriated $20,000,000 for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983. And for

Part E, there is authorized to be appropriated $50,000,000 for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983.

This part contains minimum funding requirements for parts B through E which must be met before appropriations can be made under each part.

This part also repeals the requirement contained in present law that only one application is to be submitted by local school districts for all funds under this title. This part also strengthens the requirements in present law regarding the participation of children in private schools in programs authorized under Title IV. The new provisions include requirements that the State provide programs for private school children even if the local school district is not receiving funds under the library resources program (Part B of Title IV), that the Commissioner hold a State's funds in escrow during periods during which he is negotiating a bypass of the State agency, and that an affected State be given an opportunity to show cause why such a bypass action should not be taken (instead of the currently required on-the-record hearing) before he invokes a bypass.

PART B—INSTRUCTIONAL MATERIALS AND SCHOOL LIBRARY RESOURCES

This part authorizes an allotment of funds to each State to provide assistance to local educational agencies for the acquisition of school library resources and for the acquisition of instructional equipment and material. Funds under this part shall be distributed among local educational agencies according to public and non-public school enrollments based on specific factors.

PART C—IMPROVEMENTS IN LOCAL EDUCATIONAL PRACTICES

This part authorizes an allotment of funds to each State to provide assistance to local educational agencies to improve the educational practices of those agencies. Funds under this part shall be distributed by the State among local educational agencies on an equitable basis. Local educational agencies may receive funds to plan for activities for a period of not more than one year. Local educational agencies may be provided funds for all other activities under this part for a period of not more than 5 years.

PART D—GUIDANCE, COUNSELING, AND TESTING

This is a new authorization by which the Commissioner shall carry out a program of grants to States for programs of testing students in elementary and secondary schools, for programs of counseling and guidance services, for programs, projects, and leadership activities to expand and strengthen guidance and counseling services, and for the acquisition of materials for testing programs, particularly materials to diagnose learning problems and to assess achievement in basic skills. This part also authorizes the Commissioner to make discretionary grants to carry out the purposes of this part.

PART E—EDUCATION OF GIFTED AND TALENTED CHILDREN

This is a new authorization by which the Commissioner shall carry out a program of grants to States to plan, develop, operate, and improve programs and projects designed to meet the special educational needs of gifted and talented children at the preschool and elementary and secondary school levels. Seventy-five percent of funds appropriated under this part shall be distributed on a state formula grant basis. The remaining 25 percent shall be distributed by the Commissioner on a competitive grant basis.

Section 105 of the committee bill adds a new title V—State Leadership—to the Elementary and Secondary Education Act. Part A of the title provides for administration of education programs and duties of the State educational agency; part B adds a new authorization for strengthening State educational agency management; and part C continues the existing provisions relating to Councils on Quality in Education.

Section 501. Single State application

New Section 501 provides that States desiring to participate in titles I and IV of the Elementary and Secondary Education Act shall submit to the Commissioner a general application containing assurances that the programs will be administered properly; that control of funds will be in a public agency; that the State will monitor programs and provide technical assistance; that it will conduct evaluations (at least once every three years); that the State will use fiscal control and fund accounting procedures to assure proper disbursement of Federal funds; that it will report to the Commissioner; that the State will maintain effort from State and local resources; and that the State will provide reasonable opportunity for participation of local educational agencies, individuals affected by the program, and other interested institutions, organizations, and individuals to participate in program planning and operation. The general application shall remain in effect for the duration of the program.

Section 502. Single local educational agency application

New Section 502 provides that each local educational agency participating in titles I or IV shall submit to the State agency a general application similar to that required of the State in section 501.

Section 503. Application approval

New Section 503 provides that the State educational agency shall approve a local application if it is satisfied that funds will be properly used, and that such application is not out of compliance with a determination by the agency or the Commissioner that the local educational agency repay misused funds. A State educational agency may approve a local educational agency's application only after it has considered pertinent results of audits, monitoring reports, administrative complaints, and evaluations. A State educational agency may not turn down an application in whole or in part without offering the local educational agency a hearing.

Section 504. State rulemaking

New Section 504 provides that States may adopt rules, regulations, and other requirements for programs covered by this title, if they do not conflict with the provisions of the Federal law or regulations.

Section 505. Technical assistance and dissemination of information

New Section 505 provides that each State educational agency shall carry out a comprehensive program of technical assistance for management procedures; planning, development, implementation, and evaluation or programs; and for preparation of applications, as well as other forms of technical assistance needed. Each State educational agency shall also adopt effective procedures for dissemination.

Section 506. Monitoring

New Section 506 provides that each State educational agency shall adopt standards, consistent with minimum standards established by the Commissioner, for monitoring effectiveness of programs and projects subject to this part.

Section 507. Complaint resolution

New Section 507 provides that each State educational agency shall adopt written procedures for receiving and resolving complaints, and for conducting such on-site investigations of complaints as the State educational agency deems necessary.

Section 508. Withholding of payments

New Section 508 authorizes the State educational agency, after reasonable notice and opportunity for a hearing, to withhold funds from a local educational agency or State agency not in compliance with the law. A State educational agency may suspend the initiation or continuation of withholding while there is in effect a compliance agreement with the local educational agency or State agency.

Section 509. Audits and audit resolution

New Section 509 provides for procedures for audits by each State of programs subject to this part. Such audits shall be made with reasonable frequency, but not less frequently than once every two years. Each State educational agency shall have in effect written procedures to assure timely and appropriate resolution of audit findings and recommendations. If timely repayment is not made, the State educational agency shall notify the Commissioner, who shall promptly initiate collection action.

Section 510. Payments; authorization

New Section 510 authorizes payments to States for the performance of their duties under this title, not to exceed 1.75 percent of the amount allocated to the States for such programs or $550,000 ($87,500 in the case of the outlying areas), whichever is greater. No State shall receive less under this new section than it received for program administration in fiscal year 1978. In addition, there are authorized to be appropriated additional sums to enable the Commissioner to pay each State an additional 25 percent of the amount available for administration, upon application for such additional amount to be used solely for purposes of monitoring, audit resolution, enforcement, and other similar activities.

Section 521. Activities authorized

New Section 521 authorizes State educational agencies to strengthen their educational leadership resources and to identify and meet critical educational needs of the State.

Section 522. Program requirements

New Section 522 provides that each State which desires to participate shall submit to the Commissioner a State plan setting forth the means by which the State will carry out the purposes of the part, the means by which it will make information and technical assistance available to private nonprofit school officials, and a comprehensive plan for the coordination of Federal and State funds for training activities for educational personnel.

Section 523. Authorization of appropriations

New Section 523 authorizes such sums as may be necessary for fiscal year 1980 and each of the three succeeding fiscal years.

Section 531. National and State advisory councils

New Section 531 continues the existing authorization for the National Council on Quality in Education to review the administration and operation of Federal education programs and make recommendations for their improvement. In addition, the Council is to consult with other agencies, institutions, and organizations with respect to assessing education in the Nation and the improvement of the quality of education. The section also authorizes any State to establish a State council on quality of education, broadly representative of the education community in the State. There are authorized such sums as may be necessary to support the National Council.

Section 106 of the Committee bill moves the Emergency School Aid Act into the currently vacant title VI of the Elementary and Secondary Education Act.

Section 601. Short title

New Section 601 gives the title as the "Emergency School Aid Act."

Section 602. Findings and purpose

New Section 602 continues the findings and purpose section of existing law, but eliminates compensatory education as a purpose of the Act.

Section 603. Policy with respect to the application of certain provisions of Federal law

New Section 603 extends unchanged existing section 703.

Section 604. Authorization

New Section 604 continues the authority of the Assistant Secretary for Education to carry out the Emergency School Aid Act, but requires him to delegate the responsibility for the operation of the program to the Commissioner. The section authorizes appropriation of $155 million for fiscal year 1980 and each of the three succeeding fiscal years for the basic program. In addition, $245 million is authorized for each year for special programs and projects and for evaluation. From this amount, the Assistant Secretary shall reserve 25 percent for magnet schools, pairing, and neutral site schools, and shall reserve 7 percent for educational television and radio. There is a further authorization of $15 million per year for programs and projects designed to support the development or implementation of desegregation plans. Finally, there is an authorization of $7.25 million per year, plus such sums as may be necessary, for providing compensatory services to students who had been receiving them under title I, but who are no longer receiving special services because of a desegregation plan.

Section 605. Apportionment among States

New Section 605 continues the existing State distribution of funds for the basic program. Unneeded funds can either be reapportioned to other States with need for such assistance, or added to the amounts available for special projects, in the discretion of the Assistant Secretary.

Section 606. Eligibility for assistance

New Section 606 adds a category of applicant eligible for assistance under the Act—a local educational agency which is developing a plan of desegregation issued by a State or Federal court or State agency, or one undertaken voluntarily. The period for such planning cannot exceed two years, no more than one grant may be made to a local educational agency for such planning, and receipt of a grant under this section shall not be used as an absolute defense in any court or before any other State agency or official. Existing law with respect to metropolitan area grants is continued, as are the waiver requirements. However, notice of an intent to grant a waiver is no longer required to be sent to Congress; the Assistant Secretary shall include in the annual report a list of all the waivers granted under the subsection in the preceding year.

Section 607. Authorized activities

New Section 607 rewrites the list of authorized activities to eliminate compensatory education as a primary purpose of the program.

Section 608. Special programs and projects

New Section 608 authorizes the Assistant Secretary to make grants and contracts for activities which will make substantial progress toward achieving the purposes of the title, such as magnet schools, pairing of schools with institutions of higher education and with businesses, development of plans for neutral schools, bilingual education, and integrated children's television and radio. In addition, the Assistant Secretary shall make grants to State educational agencies or other State agencies involved in desegregation, to pay a portion of the cost of such activities. The amount of assistance shall be twice the amount of State funds used for such purposes, not to exceed 10 percent of the State's basic grant of $500,000, whichever is greater. No grant may be made unless the application has been developed in consultation with teachers, educators, parents, and representatives of the general public.

Section 609. Metropolitan area projects

New Section 609 continues unchanged the existing Section 709.

Section 610. Applications

New Section 610 essentially continues the application procedure of existing law. A local educational agency application for assistance may cover a period of from one to five years. The length of the approval will be decided on the basis of the severity of the problems, the nature of the activities, the likely duration of the problems, and other criteria established by the Assistant Secretary. Once a multi-year application has been approved, no subsequent application shall be required unless the applicant proposes new activities. No payments may be made for any year under an approved application unless sufficient appropriations are available, the Secretary determines that the recipient is not otherwise ineligible, and the agency demonstrates to the Assistant Secretary that satisfactory progress is being made toward achieving the objectives of the program.

Section 611. Educational television and radio

New Section 611 continues the authority for the Assistant Secretary to make grants or contracts for the development and production of integrated children's television. It adds radio as eligible to receive aid, limiting that amount to 10 percent of the amounts available under the section.

Section 612. Payments

New Section 612 continues the payments authority of the old Section 712.

Section 613. Evaluations

New Section 613 continues the Assistant Secretary's authority for evaluation which was formerly contained in section 713.

Section 614. Joint funding

New Section 614 continues the joint funding provisions of Section 715.

Section 615. National Advisory Council

New Section 615 continues the existence of the National Advisory Council on Equality of Educational Opportunity currently contained in Section 716.

Section 616. Attorney fees

New Section 616 continues existing law with respect to the provision of attorney fees.

Section 617. Neighborhood schools

New Section 617 continues the policy currently contained in Section 719 that nothing in the title shall be construed to require any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis to adopt any other method of student assignment.

Section 618. Definitions

New Section 618 continues the definitions currently found in Section 720. It adds "Franco-Americans" to the definitions of the term "minority group," and makes the Northern Mariana Islands eligible to participate.

Subsection (b) of Section 106 of the committee bill extends the special authorizations of appropriations under sections 704(c) and 704(d) of the Emergency School Aid Act through fiscal year 1979. It repeals the entire Act effective September 30, 1979.

Section 107 of the committee bill amends the Bilingual Education Act. The term "children of limited English-speaking ability" is changed to "children of limited English proficiency," which is defined as children who "have sufficient difficulty speaking, reading, writing, or understanding the English language to deny them the opportunity to attain levels comparable to others at their appropriate age and grade levels." Up to 40 percent of a bilingual education program may involve children whose language is English, but the objective of the program must be to assist children of limited English proficiency in improving their English language skills. Applications for assistance must be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of children of limited English proficiency. Parents of children participating in a bilingual program are required to be informed of the instructional goals of the program and the progress of their children.

Programs of bilingual education in Puerto Rico may include those designed to improve not only the English proficiency of children but also may make provision for serving the needs of students of limited proficiency in Spanish. Applications may cover a one to three year period.

The Commissioner is authorized to undertake a longitudinal study of the impact of recipients of bilingual fellowships on the field of bilingual education. Any person receiving fellowship assistance shall work for a period in an activity related to the training of teachers in bilingual personnel equivalent to the period of his receipt of fellowship assistance.

The Director of the Office of Bilingual Education shall be assigned responsibility for coordinating the bilingual education aspects of programs administered by the Commissioner, in addition to title VII.

The Commissioner shall conduct a study on the need for bilingual education programs in Puerto Rico. He shall also develop and publish in the Federal Register models for bilingual education programs and models for their evaluation. The Secretary shall prepare and submit to the Congress and the President a report identifying the approximate number of children with limited English language skills, by language and by State. He shall also determine methods of identifying which children need bilingual education and shall develop evaluation and data gathering models.

The Commissioner shall provide financial assistance for bilingual education research and development; the National Institute of Education shall carry out a program of research in the field of bilingual education. The Assistant Secretary shall coordinate these activities. There is authorized $20 million to carry out bilingual education research.

Section 108 of the Committee bill makes technical amendments to the definitions for the Act and includes the Northern Mariana Islands. It also repeals the authority for dropout prevention projects and school nutrition grants, which were consolidated into title IV in 1974.

Section 109. Ethnic heritage program: This section extends the Ethnic Studies Heritage Act through fiscal year 1982.

Section 110. This section establishes a new Title X of the Elementary and Secondary Education Act, which may be cited as the "Community Schools and Comprehensive Community Education Act of 1978."

Section 1001 establishes the title of Title X—Community Schools and Comprehensive Education Act of 1978.

Section 1002 statements of finding which stress the utility of coordinating human services within the school.

Section 1003 sets forth the definition of Community Education Program used in this legislation.

Section 1004 authorizes grants in aid to the States for planning, establishing, expanding, and operating community education programs.

Section 1005 authorizes allotments to states by population ratio.

Section 1006 provides matching incentives for both local and State Educational Agencies in using funds provided under this Title as non-Federal matching contributions by coordinating human serviced programs.

Section 1007 specifically defines those activities for which funds may be used under this Title.

Section 1008 sets forth specific guidelines for the development of each State's Community Education program, requires a 10 year forward coordination plan and allows each State to retain 20 percent of its allotment for administering the State plan, technical assistance, conducting conferences, dissemination and coordination efforts.

Section 1009 authorizes the Commissioner of Education to make direct grants to Local Educational Agencies that are not funded under a State plan.

Section 1010 authorizes the Commissioner to make grants to local governmental and nonprofit agencies that have contracted with Local Education Agencies to provide services in collaboration with Community Education Programs.

Section 1011 authorizes the Assistant Secretary to develop policies and mechanism for better coordination of Federal services and education as pertain to community education programs including a 10-year plan based upon a mission budget, and other activities.

Section 1012 authorizes the Commissioner of Education to make grants to institutions of higher education for full-time and part-time training of community education personnel with specific to retraining unemployed and displaced teachers, recreation workers and other community service personnel.

Section 1013 authorizes the National Institute of Education to carry out research and evaluation efforts designated in this section and requires planning, budgeting and research to be conducted in conjunction with one another.

Section 1014 reenacts the National Advisory Council and the National Clearinghouse of the Community Schools Act of 1974.

Section 111. This section establishes a new Title XI of the Elementary and Secondary Education Act. This new title XI may be cited as the "Women's Educational Equity Act of 1978." This new title creates a separate authorization of appropriations for funding women's educational equity programs. Presently authority for that purpose is contained as part of the Special Project Act. This title increases the authorization of appropriations for women's programs and requires that the first $15 million of appropriations must be used for demonstration, development and dissemination activities of national significance. The appropriations in excess of that amount are to be used for grants to local school districts and to other eligible recipients for programs of local significance to provide equal educational opportunities for the sexes, activities incident to achieving compliance with Title IX of the Education Amendments of 1972, and other special activities. The Commissioner is authorized to carry on a program of small grants, not to exceed $25,000 each, under this part.

Section 112. This section establishes a new Title XII of the Elementary and Secondary Education Act. This new Title XII may be cited as the "Non-Public Educational Assistance Act of 1978."

This new title creates an authorization of appropriations of $500,000,000 for fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983 for the purpose of establishing a program of grants to non-public schools. Under this new title, grants may be used to acquire secural textbooks, standardized tests and scoring services, speech and hearing diagnostic services, diagnostic psychological services, guidance and counseling services, secular instructional material and equipment, and necessary transportation.

This new title also creates the position of Deputy Commissioner for Non-Public Education with the Office of Education.

This new title provides for an expedited review of any of its provisions constitutionality.

Section 113 of the committee bill authorizes the Commissioner to undertake a study of the feasibility and desirability of alternative criteria for demonstrating comparability under title I of the Elementary and Secondary Education Act.

Section 114 of the committee bill establishes within the Department of Health, Education, and Welfare an Advisory Panel on Financing Elementary and Secondary Education, to be composed of fifteen members appointed by the President. The Secretary shall coordinate the activities of the Panel with the National Institute of Education and the Office of Education, to avoid duplication of activities. The Panel shall conduct a study of the financial condition of elementary and secondary schools including a survey of the prospects for financing elementary and secondary schools through 1989. In addition, the panel, after consultation with the National Center for Education Statistics, shall develop a procedure for collecting uniform data on the financing of elementary and secondary education. The recommendations of the Panel shall be presented to the White House Conference on Education, which is expanded to include six members of the Panel.

TITLE II—IMPACT AID AMENDMENTS

Section 201. This section extends the impact aid laws through fiscal years 1983.

Section 202. This section provides that if a school district is located in more than one county, its B category children would be paid at the regular rate and not at the reduced out-of-county rate.

Section 203. This section increases the payment for handicapped children of Indian and military personnel from 150 percent to whatever may be the overall cost of providing them a free appropriate public education, less the amount paid under the Education of the Handicapped Act.

Section 204. This section requires the Commissioner to pay heavily impacted school districts increased amounts for military "B children."

Section 205. This section repeals the absorption provision contained in present law.

Section 206. This section requires the Commissioner to make payments to impacted districts of at least 75 percent of the amount they are due within 30 days of the beginning of a fiscal year.

Section 207. This section repeals the provision of current law limiting the amount of payments which can be made on behalf of children residing in federally assisted low rent public housing projects and requiring that aid received due to these children must be spent on special programs for educationally deprived children.

Section 208. This section requires that the Commissioner must hold a hearing whenever a local educational agency is aggrieved by any one of his actions under this Act and this hearing must be in conformity with the Administrative Procedures Act.

Section 209. This section amends the provisions for totally federally supported schools (section 6 schools) to require that the personnel in such schools located outside of the 50 States must be paid in conformity with the salaries in the District of Columbia schools, to require the Commissioner to annually review the expenditure of funds and the quality of education being offered in such schools, and to require the establishment of elected school boards for such schools.

Section 210. This section amends the disaster assistance provisions of current law to require the Secretary of H.E.W. to assume responsibility for the processing of any application for such assistance if the Commissioner does not complete action within 60 days on such processing.

Section 211. This section permits property owned by foreign governments and international organizations and postal service property to be counted for impact aid purposes.

Section 212. This section eliminates payments for children beyond the 12th grade after October 1, 1979.

Section 213. This section permits payments to be made for handicapped children who are attending schools outside of the local educational agency.

Section 214. This section permits the conversion of average daily attendance into average daily membership for school districts in States reimbursing based upon average daily membership for State aid purposes.

Section 221. This section extends sections 3 and 16 of P.L. 815 through fiscal year 1983, and by changing the base year in section 15(15) of P.L. 815 from 1973–74 to 1978–79.

Section 222. This section amends the school construction act (P.L. 815) to conform the counting of children to that used in P.L. 874.

Section 223. This section permits the use of funds in section 6 schools for leasing, renovating, remodeling or rehabilitating such schools.

Section 224. This section amends the disaster assistance program under P.L. 815 to provide the assistance in the form of grants as is presently provided for disaster assistance under P.L. 874.

Sec. 231. This section contains the effective dates for these amendments.

TITLE III—EXTENSION OF RELATED EDUCATION PROGRAMS

PART A—ADULT EDUCATION

Section 301 of the committee bill amends the statement of purpose for the Adult Education Act to emphasize basic skills.

Section 302 redefines "adult education" to include those who lack sufficient mastery of basic educational skills to enable them to function effectively in society.

Section 303 authorizes adult education grants to public agencies as well as to private nonprofit organizations and institutions.

Section 304 adds the Northern Mariana Islands.

Section 305 revises the State plan section to allow for filing of plans every three years, assure coordination and cooperation between adult education programs and a wide range of other State programs, and require a description of the means by which a number of organizations and institutions have been involved in the development and carrying out of the plan.

Section 306 amends the payments section, adding the Northern Mariana Islands.

Section 307 adds a new section of research, development, dissemination, evaluation and information clearinghouse, renumbering other sections and repealing the existing requirement for a clearinghouse. The Commissioner shall directly, and through grants and contracts with institutions, including the National Institute of Education, carry out a research and development program in adult education, including evaluation and dissemination. At least 1 percent, but not more than 5 percent, of the appropriation is to be reserved by the Commissioner for these activities.

Section 308 extends existing law concerning special projects for the elderly.

Section 309 extends the National Advisory Council on Adult Education, and requires the Commissioner to reserve for its activities an amount at least equal to the amount available for such activities in fiscal year 1978.

Section 310 provides for authorization of appropriations for the Adult Education Act.

Section 311 extends the existing program for adult Indians.

Section 312 authorizes a new program of adult education for adult immigrants. Such grants and contracts may be used for programs of instruction in basic skills, administrative costs of planning and operation, educational support services, and special projects designed to operate in conjunction with other activities, such as programs authorized under the Comprehensive Employment and Training Act and the Vocational Education Act. Such sums as may be necessary are authorized for fiscal year 1979 and each of the four succeeding fiscal years.

PART B—INDIAN EDUCATION

Section 321 of the Committee bill extends through fiscal year 1978 programs of Indian education in the Elementary and Secondary Education Act, Public Law 874, and the Indian Education Act.

PART C—TEACHER TRAINING

Section 331 of the Committee bill amends title V of the Higher Education Act to authorize $100,000,000 for teacher training programs for fiscal year 1979. In addition, the amendment provides that if more than $50,000,000 is appropriated in any fiscal year, programs in each State shall receive grants of at least $250,000. If the Commissioner receives a petition from an unsuccessful applicant, he shall request further consideration by the State educational agency. If, after 30 days, the State educational agency has not transmitted the application, such application shall be transmitted to the Commissioner along with the comments and evaluation of the State educational agency.

TITLE IV—GENERAL EDUCATION PROVISIONS

Section 401 of the committee bill authorizes a new procedure to eliminate excessive detail and unnecessary and redundant information requests for data on education, by requiring the Assistant Secretary to appoint or designate a Deputy Assistant Secretary for Paperwork Coordination and Reduction. In addition, the Assistant Secretary shall appoint a Federal Education Data Acquisition Council, consisting of public members and members representative of the major agencies which collect and use educational data. The Council shall advise on the coordination of paperwork and shall hear appeals from the decisions of the Deputy Assistant Secretary. It shall be chaired by an individual from the agency which has expertise in data collection but which undertakes no major data collection of education data. The Deputy Assistant Secretary shall review and coordinate all collection of information and data acquisition activities. They shall be subject to no other review, unless the Office of Management and Budget notifies the Deputy Assistant Secretary that a significant data acquisition policy issue is involved. The Deputy Assistant Secretary shall assist other agencies in planning for the collection of educational information and data, and shall assure that, with a limited exception, no informtion will be required of any educational agency or institution unless plans for its acquisition have been publicly announced by the February 15 preceding the beginning of the school year for which the data will be requested. Affected institutions and agencies are given opportunity to comment on the proposed plans. The Assistant Secretary is required to report to Congress, at least once every three years, on the implementation of the section, together with any recommendations. The Deputy Assistant Secretary is authorized to make grants to State educational agencies, including those responsible for postsecondary education, for development or improvement of their computer data systems.

Section 402 of the committee bill provides a statutory basis for the National Assessment of Educational Progress, transferring responsibility to the National Institute of Education. The National Assessment would undertake assessment of student performance, report periodically, and provide technical assistance to State and local educational agencies on the use of National Assessment objectives. The education organization through which the Institute carries out the National Assessment shall have an Assessment Policy Committee which designs and supervises the conduct of the Assessment. There are authorized to be appropriated $10,500,000 for each fiscal year for this purpose.

Section 403 of the committee bill requires the National Center for Education Statistics to compile and publish a composite profile of each State indicating the degree to which each State equalizes its school finance resources.

Section 404 of the committee bill clarifies the authority of administrative heads of education agencies.

Section 405 of the committee bill makes the authority of State educational agencies to carry over appropriated funds from one fiscal year to the next permanent. In addition, it clarifies that such carried-over funds are to be spent pursuant to the law in effect for the year in which the expenditure takes place.

Section 406 of the committee bill provides that additional information concerning maintenance of effort and State and local expenditures must be included in evaluation reports.

Section 407 of the committee bill revises the maintenance of effort determination to allow the Commissioner to waive, for one fiscal year only, the requirements of title IV of the Elementary and Secondary Education Act and the Adult Education Act, in certain circumstances, and reduce the payment proportionately. The waiver may not be taken into account when computing fiscal effort in subsequent fiscal years.

Section 408 provides that, in awarding contracts and grants for development of curricula or instructional materials, the Commissioner and the Director of the National Institute of Education shall seek to assure that such materials will be developed in a manner conducive to dissemination.

Section 409 adds a new section 434A to the General Education Provisions Act authorizing the Commissioner to repay up to 75 percent of funds recovered pursuant to an audit exception to the State or local agency, for use for the beneficiaries originally intended to be served. Before doing so, the Commissioner must publish in the Federal Register a notice of his intent to make such repayment. Interested parties have 30 days to comment regarding the proposed arrangement.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter printed in italic):

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

[TITLE I—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

[DECLARATION OF POLICY

[SEC. 101. In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children.

[DURATION OF ASSISTANCE

[SEC. 102. During the period beginning July 1, 1973, and ending September 30, 1978, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title.

[PART A—BASIC GRANTS

[Subpart 1—Grants to Local Educational Agencies

[GRANTS—AMOUNT AND ELIGIBILITY

[SEC. 103. (a)(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under section 143(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection, and payments pursuant to section 124), and there shall be authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1973 for Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

[(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agent is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

[(3) (A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

[(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

[(C) The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States.

[(4) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

[(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children counted under subsection (c):

[(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

[(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

[(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

[(c)(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

[(2)(A) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

[(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

[(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (A) of this subsection) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

[(d)(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

[(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 141(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of sections 141(a) and 142(a)(3).

[Subpart 2—State Operated Programs

[PROGRAMS FOR HANDICAPPED CHILDREN

[SEC. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

[(b) Except as provided in sections 124 and 125, the grant which an agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

[(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

[(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

[PROGRAMS FOR MIGRATORY CHILDREN

[SEC. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

[(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

[(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

[(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 141(a); and

[(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

[(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

[(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

[(b) Except as provided in sections 124 and 125, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

[PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

[SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

[(b) Except as provided in sections 124 and 125, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

[(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

[RESERVATION OF FUNDS FOR TERRITORIES

[SEC. 124. There is authorized to be appropriated for each fiscal year for purposes of each of sections 121, 122, and 123, an amount equal to not more than 1 per centum of the amount appropriated for such year for such sections for payments to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.

[MINIMUM PAYMENTS FOR STATE OPERATED PROGRAMS

[SEC. 125. No State shall receive in any fiscal year prior to October 1, 1978, pursuant to sections 121, 122, or 123 an amount which is less than 100 per centum of the amount which that State received in the prior fiscal year pursuant to such section 121, 122, or 123, respectively.

[PART B—SPECIAL INCENTIVE GRANTS

[MAXIMUM ENTITLEMENT

[SEC. 126. (a) In the case of any fiscal year ending after June 30, 1969, each State shall be entitled to a special incentive grant if such State has an effort index for the second preceding fiscal year that exceeds the national effort index for such year.

[(b) The maximum amount of a special incentive grant for which a State is eligible for any fiscal year shall be determined by multiplying the amount of $1 for each 0.01 per centum by which the effort index of that State for the second preceding fiscal year exceeds the national effort index for such year times the aggregate number of children counted for the purposes of entitled local educational agencies within such State to basic grants in accordance with sections 103(a)(2), 121, 122, and 123, except that no State shall be eligible to receive a special incentive grant under this part, in an amount in excess of 15 per centum of the total amount available for grants under this part.

[APPLICATION; USE OF FUNDS

[Sec. 127. Any State desiring the special incentive grant to which it is entitled under this part for any fiscal year shall make application therefor, in accordance with the requirement set forth in section 142, to the Commissioner. Such application shall be submitted at such time and contain such information as the Commissioner shall require by regulation and shall contain a statement of such policies and procedures as will insure that funds granted to the State under this part will be (1) made available to local educational agencies within that State which have the greatest need for assistance under this title, and (2) used, in accordance with the applicable provisions of this title, for programs and projects designed to meet the special educational needs of educationally deprived children.

[DEFINITIONS

[Sec. 128. For the purpose of this part the term "effort index" when applied to States, means the per centum expressing the ratio of expenditures from all non-Federal sources in a State for public elementary and secondary education to the total personal income in such State, and the term "national effort index" means the per centum expressing the ratio of such expenditures in all States to the total personal income in all States; and the term "State" means the fifty States and the District of Columbia.

[PART C—SPECIAL GRANTS

ELIGIBILITY AND MAXIMUM AMOUNT OF SPECIAL GRANTS

[Sec. 131. (a) Each local educational agency in a State which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant for that fiscal year if it meets the requirements of subsection (b). The amount of such grant shall be determined in accordance with subsection (c).

[(b) (1) A local educational agency shall be entitled to a grant under this part for any fiscal year if the school district of such agency is located in a county in which—

[(A) the number of children described in paragraph (2) for such year amounts to at least 200 per centum of the average number of such children in all counties in the State in which such agency is located for that fiscal year; or

[(B) the number of children so described in such county for such year is 10,000 and amounts to 5 per centum of the total number of children in such county.

[(2) For the purposes of paragraph (1), the children counted with respect to a local educational agency shall be those children in the such county who are—

[(A) in families having an annual income of $3,000 or less; or

[(B) in families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; or

[(C) living in institutions for neglected or delinquent children or being supported in foster homes with public funds.

[(3) (A) Determinations with respect to numbers of children in any county under paragraph (2) shall be made by the Commissioner on the basis of the most recent satisfactory data available to him.

[(B)(i) The number of children determined with respect to one or more counties shall be allocated by the Commissioner, for the purposes of paragraph (2), among the local educational agencies with school districts located in such county or counties.

[(ii) In any case where—

[(I) two or more local educational agencies serve, in whole or in part, the same geographical area; or

[(II) a local educational agency provides free public education for a substantial number of children who reside in the school district of another local educational agency,

the Commissioner may allocate the number of children determined under this subsection among such agencies in such a manner as will best achieve the purposes of this section.

[(C)(i) For the purposes of paragraph (2), the Commissioner shall determine the number of children from families having an annual income of $3,000 or less on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this subsection.

[(ii) For the purposes of this subsection, the Secretary of Health, Education, and Welfare shall determine the number of children from families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act and the number of children living in institutions for neglected or delinquent children or being supported in foster homes with public funds, on the basis of caseload data for the month of January of the preceding fiscal year, or to the extent that such data are not available to him before April 1 of the calendar year in which the determination is made, then on the basis of the most recent data available to him at the time of such determination. For the purposes of this subsection, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

[(c) The amount of the grant to which a local educational agency shall be entitled for any fiscal year shall be—

[(A) the number of children determined with respect to such agency under subsection (b);

multiplied by—

[(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State in which such agency is located.

[(d) Notwithstanding any other provision of this section, no payments for any fiscal year under this part to the local educational agencies in a single State shall exceed 12 per centum of the aggregate payments to all local educational agencies in that year under this part.

[(e)(1) The aggregate of the amount for which all local educational agencies are eligible under this part shall not exceed $75,000,000 for any fiscal year. If, for any fiscal year, such aggregate, as computed without regard to the preceding sentence, exceeds $75,000,000, the amount for which each local educational agency is eligible shall be reduced ratably until such aggregate does not exceed such limitation.

[(2) For the purpose of making payments under this part there are authorized to be appropriated not in excess of $75,000,000 for the fiscal year ending June 30, 1975.

[(f) For the purposes of this section, the term—

[(1) "State" means the fifty States and the District of Columbia; and

[(2) "children" includes all children aged 5 through 17, inclusive.

[PART D.—GENERAL PROVISIONS

[APPLICATION

[SEC. 141 (a) A local educational agency may receive a grant under this title for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish)—

[(1) that payment under this title will be used for the excess costs of programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this title, the training of teachers, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families (and at the discretion of the local educational agency, in any school of such agency not located in such a school attendance area, at which the proportion of children in actual average daily attendance from low-income families is substantially the same as the proportion of such children in such an area of that agency) and (B) which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting those needs and to this end involve an expenditure of not less than $2,500, except that the State educational agency may with respect to any applicant reduce the $2,500 requirement if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for the applicant to join effectively with other local educational agencies for the purpose of meeting the requirement; and nothing herein shall be deemed to preclude two or more local educational agencies from entering into agreements, at their option, for carrying out jointly operated programs and projects under this title: *Provided*, That the amount used for plans for any fiscal year shall not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 103 or $2,000, whichever is greater;

[(2) that the local educational agency has provided satisfactory assurance that section 141A will be complied with;

[(3) That (A) the total educational agency has provided satisfactory assurance that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property, (B) Federal funds made available under this title will be so used (i) as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this title, and (ii) in no case, as to supplant such funds from non-Federal sources and (C) State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title: *Provided*, That any finding of noncompliance with this clause shall not affect the payment of funds to any local educational agency until the fiscal year beginning July 1, 1972, and *Provided further*, That each local educational agency receiving funds under this title shall report on or before July 1, 1971, and on or before July 1 of each year thereafter with respect to its compliance with this clause;

[(4) In the case of any project for construction of school facilities, that the project is not inconsistent with overall State plans for the construction of school facilities and that the requirements of section 433 of the General Education Provisions Act will be complied with on all such construction projects;

[(5) In the case of an application for payments for planning, (A) that the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result in a program or project which will be carried out under this title, and (B) that planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

[(6) That effective procedures, including provisions for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of educationally deprived children;

[(7) That the local educational agency will make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this title, including information relating to the educational achievement of students participating in programs carried out under this title, and will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such reports;

[(8) That the local educational agency is making the application and all pertinent documents related thereto available to parents and other members of the general public and that all evaluations and reports required under paragraph (7) shall be public information;

[(9) In the case of a project for the construction of school facilities, that, in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons;

[(10) That effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

[(11) In the case of a project for the construction of school facilities, that, in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project);

[(12) In the case of projects involving the use of education aides, the local educational agency sets forth well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together;

[(13) That, where a school attendance area does not meet the requirement of paragraph (1)(A) of this subsection for a fiscal year, or in the case of a local educational agency electing to allocate funds under section 150 where such an area does not meet the requirement of that section, but did meet the appropriate requirement in either of the two preceding fiscal years, that school attendance area shall be considered to meet the applicable criterion for that fiscal year; and

[(14) That the local educational agency shall establish an advisory council for the entire school district and shall establish an advisory council for each school of such agency served by a program or project assisted under section 143(a)(2), each of which advisory councils—

[(A) has as a majority of its members parents of the eligible children to be served,

[(B) is composed of members selected by the parents in each school attendance area,

[(C) has been given responsibility by such agency for advising it in the planning for, and the implementation and evaluation of, such programs and projects, and

[(D) is provided by such agency, in accordance with regulations of the Commissioner, with access to appropriate information concerning such programs and projects.

[(b) It is the intent of the Congress to encourage, where feasible, the development for each educationally deprived child participating in a program under this title of an individualized written educational plan (maintained and periodically evaluated), agreed upon jointly by the local educational agency, a parent or guardian of the child, and when appropriate, the child.

[(c) The State educational agency shall not finally disapprove in whole are in part any application for funds under this title without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing.

[PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

[SEC. 141A. (a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of clauses (A) and (B) of paragraph (1) of subsection (a) of section 141, paragraph (2) of subsection (a) of such section, and clauses (A) and (B) of paragraph (3) of subsection (a) of such section 141.

[(b)(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner shall waive such requirement and the provisions of section 141(a)(2), and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

[(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of paragraph (a) and section 141 (a)(2) shall be waived.

[(3) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title.

[(4)(A) the Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

[(B) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

[(C) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(D) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[ASSURANCES FROM STATES

[SEC. 142. (a) Any State desiring to participate under this title (except with respect to the program provided for in section 122 relating to migratory children of migratory agricultural workers) shall submit through its State educational agency to the Commissioner an application, in such detail as the Commissioner deems necessary, which provides satisfactory assurance—

[(1) that, except as provided in section 143(b), payments under this title will be used only for programs and projects which have been approved by the State educational agency pursuant to section 141(a) and which meet the applicable requirements of that section and of section 121 and that such agency will in all other respects comply with the provisions of this title, including the enforcement of any obligations imposed upon a local educational agency under section 141(a);

[(2) that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to local educational agencies) under this title; and

[(3) that the State educational agency will make to the Commissioner (A) periodic reports (including the results of objective measurements required by section 141(a)(6) and of research and replication studies) evaluating the effectiveness of payments under this title and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year), and assurance that such agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

[(b) The Commissioner shall approve an application which meets the requirements specified in subsection (a), and he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State educational agency.

[PAYMENT

[SEC. 143. (a) (1) The Commissioner shall, subject to the provisions of section 144, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this title. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

[(2) From the funds paid to it pursuant to paragraph (1) each State educational agency shall distribute to each local educational agency of the State which is not ineligible by reason of section 103(b) and which has submitted an application approved pursuant to section 141(a) the amount for which such application has been approved except that this amount shall not exceed the amount determined for that agency pursuant to section 103.

[(b) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this title (including technical assistance for the measurements and evaluations required by section 141(a) (6), except that the total of such payments in any fiscal year shall not exceed—

[(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or

[(2) $150,000, or $25,000 in the case of Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, whichever is the greater.

[(c) (1) No payments shall be made under this title for any fiscal year to a State which has taken into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

[(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year.

[ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

[SEC. 144. If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under part A of this title for such year, the allocations to such agencies and allocations under part B shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated, except that entitlements under such part B shall be taken into consideration only to the extent that appropriations for such title I (excluding part C thereof) exceed $1,396,975,000 for any fiscal year and such entitlements shall not exceed $50,000,000 in any fiscal year. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year. If the aggregate of the amounts to which all States are entitled under such part B exceeds $50,000,000 the entitlement of each State shall be reduced ratably until such aggregate does not exceed $50,000,000 in such fiscal year.

[In case additional funds become available for making payments under this title or that year, such reduced amounts shall be increased under this title for that year, such reduced amounts shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State, and (2) State educational agencies referred to in section 122 must file applications. If the maximum grant a local educational agency or an agency referred to in section 122 would receive (after any ratable reduction which may have been required under the first sentence of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of paragraph (2) of section 103(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this title in such manner as the respective State educational agencies shall prescribe.

[WITHHOLDINGS

[SEC. 146. Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 122 or 142(b) the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies not affected by the failure, as the case may be.

[JUDICIAL REVIEW

[SEC. 147. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 122 or 142(b) or with his final action under section 146, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

[(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[NATIONAL ADVISORY COUNCIL

[SEC. 148. (a) There shall be a National Advisory Council on the Education of Disadvantaged Children (hereinafter in this section referred to as the "National Council") consisting of fifteen members appointed by the President, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, for terms of three years, except that (1) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.

[(b) The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operation. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

[(c) The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, 1978.

[TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH DEPENDENT CHILDREN

[SEC. 149. (a) Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this title of this Act shall not be regarded (A) in determining the need of such person under such approved State plan or (B) in determining the need of any other individual under such approved State plan.

[(b) Notwithstanding the provisions of subsection (a) of this section, no funds to which a State is otherwise entitled under title IV of the Social Security Act for any period before the fourth month after the adjournment of the State's first regular legislative session which adjourns more than sixty days after enactment of the Elementary and Secondary Education Amendments of 1966, shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of subsection (a) of this section.

[ALLOCATION OF FUNDS WITHIN THE SCHOOL DISTRICT OF A LOCAL EDUCATIONAL AGENCY

[SEC. 150. (a) For any fiscal year not more than 20 local educational agencies selected for the purpose of section 821(a)(5) of the Education Amendments of 1974 may elect, with the approval of the districtwide parent advisory council which is required to be established under section 141(a)(14) of this title, to allocate funds received from payments under this title on the basis of a method or combination of methods other than the method provided under section 141(a)(1)(A). Any method selected pursuant to this section shall be so designed and administered as to be free from racial or cultural discrimination.

[(b) Any local educational agency to which this section applies shall submit such reports to the Director of the National Institute of Education at such time and in such manner as the Director may reasonably require to carry out his responsibilities under section 821(a)(5) of the Education Amendments of 1974.

[PROGRAM EVALUATION

[SEC. 151. (a) The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs or projects.

[(b) The Commissioner shall develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this title.

[(c) The Commissioner shall, where appropriate, consult with State agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State.

[(d) The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this title, for their use in carrying out their functions under section 142(a), which shall include uniform procedures and criteria to be utilized by local educational agencies, as well as by the State agency in the evaluation of such programs.

[(e) The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

[(f) The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and nationwide basis.

[(g) The Commissioner shall make a report to the respective committees of the Congress having legislative jurisdiction over programs authorized by this title and the respective Committees on Appropriations concerning his progress in carrying out this section not later than February 1, 1975, and thereafter he shall report to such committees no later than February 1 of each calendar year the results of the evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with any other related findings and evaluations, and his recommendations with respect to legislation.

[(h) The Commissioner shall also develop a system for the gathering and dissemination of results of evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State and local educational agencies responsible for the design and conduct of programs and projects under this title, and to the education profession and the general public.

[(i) The Commissioner is authorized, out of funds appropriated to carry out this title in any fiscal year, to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed one-half of 1 per centum of the amount appropriated for such program, of which $5,000,000 for each fiscal year ending prior to October 1, 1977, shall be available only for the surveys and studies authorized by section 821 of the Education Amendments of 1974. In carrying out the provisions of this section, the Commissioner shall place priority on assisting States and local educational agencies to conduct evaluations and shall, only as funds are available after fulfilling that purpose, seek to conduct any national evaluations of the program.

[SHORT TITLE

[SEC. 152. This title may be cited as "Title I of the Elementary and Secondary Education Act of 1965."]

"*TITLE I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN*

"*DECLARATION OF POLICY*

"*SEC. 101. In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational* *agencies to support adequate educaional programs, the Congress declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the speical educational needs of educationally deprived children. Further, in recognition of the special educational needs of children of certain migrant parents, of Indian children, and of handicapped or neglected or delinquent children, the Congress declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to help meet the special educational needs of such children.*

"DURATION OF ASSISTANCE

"Sec. 102. During the period beginning July 1, 1979, and ending September 30, 1983, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title.

"PART A—PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Basic Grants

"GRANTS—AMOUNT AND ELIGIBILITY

"Sec. 111. (a) Amount of Grants.—(1) There is authorized to be appropriaed for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under part E (other than payments under such part to jurisdictions excluded from the term 'State' by this subsection, and payments pursuant to section 156), and there is authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1973 for Guam, American Samoa, the Virgin Islands, the Norhern Mariana Islands, the Trust Territory of the Pacific Islands, and to the Secreiary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purpose of this title.

"(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligible to receive under this subpart

for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located which aggregate amount shall be equal to the aggregate amount determinded under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Commissioner.

"(3)(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

"(C) In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Commissioner for authority during any particular fiscal year to make the allocations under this part directly to local educational agencies without regard to the counties. If the Commissioner approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that such allocations will be made using precisely the same factors for determining grants as are used under this part and that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the

State educational agency may appeal directly to the Commissioner for a final determination.

"(*D*) *For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure in any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection* (*c*) *for Puerto Rico by the product of—*

"(*i*) *the percentage determined under the preceding sentence, and*

"(*ii*) *32 per centum of the average per pupil expenditure in the United States.*

"(*4*) *For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.*

"(*b*) *MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children counted under subsection* (*c*)*:*

"(*1*) *In any case* (*except as provided in paragraph* (*3*)) *in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children on the school district of such local educational agency shall be at least ten.*

"(*2*) *In any other case, except as provided in paragraph* (*3*), *the number of such children in the county which includes such local educational agency's school district shall be at least ten.*

"(*3*) *In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.*

"(*c*) *CHILDREN TO BE COUNTED.—*(*1*) *The number of children to be counted for purposes of this section is the aggregate of* (*A*) *the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph* (*2*)(*A*), (*B*) *the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph* (*2*)(*B*), *and* (*C*) *the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children* (*other than such institutions operated by the United States*) *but not counted pursuant to subpart 3 of part B for the purposes of a grant to a State agency, or being supported in foster homes with public funds.*

"(*2*)(*A*) *For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive,* *from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.*

"*(B) For purpose of this section, the Secretary shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.*

"*(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (A) of this subsection) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.*

"*(d) Program for Indian Children.—(1) From the amount alloted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.*

"(2) *The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requiremenst of subpart 3 of this part and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of subpart 3 of this part and sections 192 and 193.*

"*TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH DEPENDENT CHILDREN*

"*SEC. 112. Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this title of this Act shall not be regarded (1) in determining the need of such person under such approved State plan or (2) in determining the need for any other individual under such approved State plan.*

"*Subpart 2—Special Grants*

"*SPECIAL INCENTIVE GRANTS*

"*SEC. 116. (a) ELIGIBILITY.—(1) Each local educational agency that is eligible to receive a payment under section 111 for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if it is located in a State which has in effect for that fiscal year a State program meeting the requirements of paragraph (2) under which financial assistance is provided to meet the special education needs of educationally deprived children.*

"(2) *A State program meets the requirements of this subsection if, under State law—*

"(A) *the program meets the requirements of section 131(c); and*

"(B) *not less than 50 per centum of the funds expended under the program in any local educational agency in the State in the fiscal year preceding any fiscal year in which the State receives a payment under this subpart is expended in school attendance areas of such agencies having high concentrations of children from low-income families.*

"(b) Amount of Grants.—(1) Except as provided in paragraph (3), the aggregate amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be 50 per centum of the amount of State funds expended, in the most recent fiscal year for which data are available, under a State program meeting the requirements of paragraph (2) of subsection (a) of this section.

"(2) The amount of the additional grant for each local educational agency in a State under this section for any fiscal year shall bear the same ratio to the amount allocated to that State under subsection (c) of this section as the amount allocated to that local educational agency under subpart 1 of part A of this title for that fiscal year bears to the aggregate amount allocated to all local educational agencies in the State under subpart 1 of part A for that fiscal year.

"(3) The aggregate amount that the local educational agencies in a State shall be eligible to receive under this section for any fiscal year shall not exceed 10 per centum of the aggregate amount which all local educationtal agencies in that State are eligible to receive under section 111 of this title for that fiscal year.

"(4) Each State which desires to receive payments under this section shall develop a system for determining the data required by subparagraph (2)(B) of subsection (a) of this section relating to the percentage of State funds expended in school attendance areas having high concentrations of children from low-income families and paragraph (1) of this subsection relating to the amount of State funds expended under the State program referred to in that paragraph. The State shall submit to the Commissioner such information as the Commissioner may request concerning that system.

"(c) Payments; Use of Funds.—(1) Except as provided in paragraph (2), the Commissioner shall pay to each State for each fiscal year the aggregate amount to which the local educational agencies in that State are entitled for that fiscal year.

"(2) Whenever the expenditures made by a State in accordance with subsection (a) of this section in a fiscal year equal or exceed expenditures in the preceding fiscal year, the amount paid to that State under this section shall not be less than the amount paid to that State under this section in the preceding fiscal year, and the total of any increases required under this paragraph shall be derived by proportionately reducing the amount paid to States which were not entitled to a payment under this section in the preceding fiscal year, except that the amount paid to a State under this section for any fiscal year shall not exceed the maximum amount to which that State is entitled for that fiscal year under paragraph (1) of subsection (b).

"(3) The total amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be added to the amount paid to that State under section 192 for that year. From the amount paid to it under this subsection, the State shall distribute to each local educational agency of the State the amount of its additional grant as determined under paragraph (2) of subsection (b) of this section.

"(4) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant

to its application submitted under section 121 and shall be subject to all other requirements in subpart 3 of part A of this title.

"*(d)* ***Appropriations.***—*There are authorized to be appropriated for the purposes of this section such sums as may be necessary for fiscal year 1980 and for the three succeeding fiscal years.*

"*GRANTS FOR LOCAL EDUCATIONAL AGENCIES IN COUNTIES WITH ESPECIALLY HIGH CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES*

"*Sec. 117. (a) Purpose.—It is the purpose of this section to provide additional assistance to local educational agencies in counties with especially high concentrations of children from low-income families to enable local educational agencies in such counties to provide more effective programs of instruction, especially in the basic skills of reading, writing, and mathematics, to meet the special educational needs of educationally deprived children.*

"*(b) Eligibility for and Amount of Special Grants.—(1) Each county, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—*

> "*(A) the number of children counted under section 111(c) of this title for local educational agencies in such county for the preceding fiscal year exceeds five thousand, or*
>
> "*(B) the number of children counted under section 111(c) exceeds 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such counties in that fiscal year.*

except that no such State shall receive less than one-quarter of 1 per centum of the sums appropriated under subsection (d) for that section for that fiscal year.

"*(2) For each county in which there are local educational agencies eligible to receive an additional grant under this section for any fiscal year the Commissioner shall determine the product of—*

> "*(A) the number of children in excess of five thousand counted under section 111(c) for the preceding fiscal year or the number of children counted under that section in excess of 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county for that preceding fiscal year, whichever is greater, and*
>
> "*(B) the average per pupil expenditure determined for those agencies under the second sentence of section 111(a)(2) of this title for the fiscal year for which the determination is being made.*

"*(3) The amount of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount appropriated under subsection (d) for that fiscal year as the product determined under paragraph (2) for such county for that fiscal year bears to the sum of such products for all counties in the United States for that fiscal year.*

"*(4) For the purposes of this section, the Commissioner shall determine the number of children counted under subsection 111(c) for any county and the total number of children aged five to seventeen,* inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the entitlement of that county is determined under section 111.

"(5)(A) Except as provided in subparagraph (C), funds allocated to counties under this part shall be allocated by the State educational agency, pursuant to regulations established by the Commissioner, among the several local educational agencies whose school districts lie (in whole or in part) within the county on the basis of the current distribution in the county of children aged five to seventeen, inclusive, from low-income families (using a poverty level selected by the State educational agency consistent with the purposes of this title) as determined on the basis of the available data which such State educational agency determines best to reflect the current distribution in the county of children aged five to seventeen, inclusive, from low-income families.

"(B) Funds allocated pursuant to subparagraph (A) by the State educational agency among the several local educational agencies may only be allocated to such agencies whose incidence of children from low-income families is at least 10 per centum or above the county's average incidence of such children whichever would result in grants being made to the fewer number of districts.

"(C) The State educational agency of any State, to which the exception in paragraph (1) of this subsection applies, shall allocate the funds received under this section among local educational agencies on the basis of the relative number of children counted under section 111(c) of this title.

"(c) PAYMENTS; USE OF FUNDS.—(1) The total amount to which the counties in a State are entitled under this section for any fiscal year shall be added to the amount paid to that State under section 191 for that year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which it is entitled under this section.

"(2) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 121 and shall be subject to the other requirements in subpart 3 of this part.

"(d) APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this section $400,000,000 for fiscal year 1979, and such sums as may be necessary for each of the four succeeding fiscal years.

"Subpart 3—Program Requirements and Application

"LOCAL PROGRAM APPLICATIONS

"SEC. 121. A local educational agency may receive a grant under this title for any fiscal year if he has on file with the appropriate State educational agency a current application, approved by the State educational agency, describing the programs and projects to be conducted with assistance provided under this title for a period not to exceed three fiscal years, including the fiscal year for which the grant is to be made. Such an application may be amended at any time to describe changes in or additions to the activities originally set forth in the application.

"*DESIGNATING SCHOOL ATTENDANCE AREAS*

"*SEC. 122. (a) GENERAL PROVISIONS.—Except as provided in subsections (b), (c), (d), and (e) of this section, a local educational agency shall use funds received under this title in school attendance areas having high concentrations of children from low-income families (hereinafter referred to as 'eligible school attendance areas'), and where funds under this title are insufficient to provide programs and projects for all educationally deprived children in eligible school attendance areas, a local educational agency shall annually rank its eligible school attendance areas from highest to lowest, according to relative degree of concentration of children from low-income families. The same measure of low-income, which shall be chosen by the local educational agency and which may be a composite of several indicators, shall be used with respect to all such areas, both to identify the areas having high concentrations of children from low-income families and to determine the ranking of each area. A local educational agency may carry on a program or project assisted under this title in an eligible school attendance area only if it also carries on such program or project in other eligible school attendance areas which are ranked higher under the first sentence.*

"*(b) USE OF ENROLLMENT DATA IN CERTAIN SCHOOLS.—A local educational agency may use funds received under this title for educationally deprived children who are in a school of such agency which is not located in an eligible school attendance area, but at which the proportion of children in actual average daily attendance who are from low-income families is substantially the same as the proportion of such children in such an area of that agency (hereinafter referred to as an eligible school).*

"*(c) CONTINUATION OF ELIGIBILITY FOR CERTAIN SCHOOL ATTENDANCE AREAS OR SCHOOLS.—An eligible school attendance area or an eligible school may be designated a project area under subsection (a) or a project school under subsection (b) for a fiscal year even though it does not qualify under that subsection for that fiscal year, if such area or school was so designated in either of the two preceding fiscal years.*

"*(d) LOWER RANKED SCHOOL ATTENDANCE AREAS OR SCHOOL HAVING SUBSTANTIALLY GREATER INCIDENCES OF EDUCATIONALLY DEPRIVED CHILDREN THAN HIGHER RANKED AREAS OR SCHOOLS.—The Commissioner shall issue regulations providing for an exception to subsection (a) permitting children in lower ranked eligible school attendance areas or eligible schools having substantially greater incidences of educational deprivation than areas or schools ranked higher under subsection (a) or (b) to receive assistance before such children in higher ranked areas or schools receive such assistance.*

"*(e) SKIPPING HIGHER RANKED SCHOOL ATTENDANCE AREAS OR SCHOOLS RECEIVING SERVICES OF THE SAME NATURE AND SCOPE FROM NON-FEDERAL SOURCES.—The Commissioner shall issue regulations providing for an exception to subsection (a) or (b) permitting local educational agencies to skip higher ranked eligible school attendance areas or eligible schools receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this title. Whenever children residing in eligible areas and attending pri-*

vate elementary and secondary schools are ineligible for services of the same nature and scope from non-Federal sources such children should be selected for programs and projects under this title without regard to the provisions of this subsection .

"*CHILDREN TO BE SERVED*

"*SEC. 123. (a) GENERAL PROVISIONS.—Except as provided in subsections (b), (c), and (d) of this section and section 133, a local educational agency must use funds received under this title for educationally deprived children, identified in accordance with section 124(b) as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 122.*

"*(b) CONTINUATION OF ELIGIBILITY FOR EDUCATIONALLY DEPRIVED CHILDREN WHO ARE NO LONGER IN GREATEST NEED OF ASSISTANCE.—Where for a fiscal year, an educationally deprived child in a school attendance area or school satisfying the requirements of section 122, does not meet the requirement of subsection (a) requiring that he be in greatest need of special assistance, but did meet such requirement in any previous year, and is still educationally deprived, that child may participate in a program or project assisted under this title for the current fiscal year.*

"*(c) CONTINUATION OF ELIGIBILITY FOR EDUCATIONALLY DEPRIVED CHILDREN TRANSFERRED TO INELIGIBLE AREAS IN THE SAME YEAR.—Educationally deprived children who begin participation in a program or project assisted under this title, in accordance with subsections (a) and (b) but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this title, may continue to participate in a program or project funded under this title for the duration of that same school year.*

"*(d) SKIPPING CHILDREN DETERMINED TO BE IN GREATEST NEED OF ASSISTANCE RECEIVING SERVICES OF THE SAME NATURE AND SCOPE FROM NON-FEDERAL SOURCES.—The Commissioner shall issue regulations providing for an exemption to subsection (a) permitting local educational agencies to skip educationally deprived children in greatest need of assistance receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this title.*

"*REQUIREMENTS FOR DESIGN AND IMPLEMENTATION OF PROGRAMS*

"*SEC. 124. (a) PURPOSE OF PROGRAM.—A local educational agency may use funds received under this title only for programs and projects which are designed to meet the special educational needs of the children referred to in section 123. Such programs and projects may include the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas, the training of teachers, and, where necessary, the construction of school facilities, and planning for such programs and projects.*

"*(b) ASSESSMENT OF EDUCATIONAL NEED.—A local educational agency may receive funds under this title only if it makes an assessment of educational needs each year to (1) identify educationally de-*

prived children and to select those educationally deprived children who have the greatest need for special assistance; (2) identify the general instructional areas on which the program will focus; and (3) determine the special educational needs of participating children with specificity sufficient to facilitate development of high-quality programs and projects.

"(c) PLANNING.—A local educational agency may use funds received under this title for planning only if (1) the planning relates directly to programs or projects to be assisted under this title and has resulted, or is reasonably likely to result, in a program or project to be assisted under this title, and (2) such funds are needed because of the innovative nature of the program or project or because such agency lacks the resources necessary to plan adequately for programs and projects to be assisted under this title. The amount a local educational agency may use for plans for any fiscal year may not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 111 or $2,000, whichever is greater.

"(d) SUFFICIENT SIZE, SCOPE, AND QUALITY.—A local educational agency may use funds received under this title only for programs and projects which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served.

"(e) EXPENDITURES RELATED TO RANKING OF ELIGIBLE SCHOOL ATTENDANCE AREA OR SCHOOLS.—A local educational agency may receive funds under this title only if such funds are allocated among project areas or schools for programs and projects assisted under this title on the basis of the number and needs of particular students as determined in accordance with section 123.

"(f) COORDINATION WITH OTHER PROGRAMS.—A local educational agency may receive funds under this title only if it demonstrates that, in the development of its application, it has taken into consideration benefits and services which are or may be available through other public and private agencies, organizations, or individuals. The local educational agency shall also demonstrate that in order to avoid duplication of effort and to insure that all programs and projects complement each other, it has considered suggestions and offers of assistance made by other agencies which may aid in carrying out or making more effective the program or project for which the application is made.

"(g) EVALUATIONS.—A local educational agency may receive funds under this title only if—

"(1) effective procedures are adopted for evaluating at least every three years the effectiveness of the programs assisted under this title in meeting the special educational needs of educationally deprived children;

"(2) such evaluations will include, during each three-year period, the collection and analysis of data relating to the degree to which programs assisted under this title have achieved their goals, and will also include objective measurements of educational achievement in basic skills over at least a twelve-month period in order to determine whether regular school year programs have sustained effects over the summer; and

"(3) the evaluation will address the purposes of the programs and that the results of the evaluations will be utilized in planning for and improving projects and activities carried out under this title in subsequent years.

"(h) TEACHER PARTICIPATION.—A local educational agency may receive funds under this title only if teachers in schools participating in programs assisted under this title have been involved in planning for those programs and will be involved in the evaluation thereof.

"(i) PARENT PARTICIPATION.—A local educational agency may receive funds under this title only if parents of children participating in programs assisted under this title will be informed of the instructional goals of the program and the progress of their children in that program, and will be afforded opportunities to assist their children in achieving those goals.

"(j) SUSTAINING GAINS.—A local educational agency may receive funds under this title only if, in developing programs to be assisted under this title, the local educational agency will give due consideration to the inclusion of components designed to sustain the achievements of children beyond the school year in which the program is conducted, through such means as increased emphasis on summer programs and intermediate and secondary level programs.

"(k) TRAINING OF EDUCATION AIDES.—A local educational agency may receive funds under this title for programs and projects involving educational aides only if it has in effect well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together.

"(l) JOINTLY OPERATED PROGRAMS.—Two or more local educational agencies may, at their option, enter into an agreement for carrying out jointly operated programs and projects assisted under this title.

"PARENTAL INVOLVEMENT

SEC. 125. (a) ESTABLISHMENT OF ADVISORY COUNCILS.—A local educational agency may receive funds under this title only if it establishes (1) an advisory council for its entire school district composed of representatives elected by the project area and project school advisory councils, and (2) an advisory council for each project area or project school. Each project area or project school advisory council—

"(A) shall be composed of not less than ten members (three-fourths of whom shall be parents of the children to be served who are elected by parents in the school attendance area, and one-fourth of whom shall be elected by the parent members), and

"(B) shall elect officers of the council after it has been fully constituted, and

"(C) shall be composed of members who shall serve for terms of two years after which time they may be reelected, except that the members first elected after the date of enactment of the Education Amendments of 1978, one-half shall be elected for a term of one year only, and

"(D) shall meet a sufficient number of times to carry out their responsibilities under subsection (b) at locations chosen by the council.

The first such meeting shall occur not later than the end of the second month of the school year.

"(b) Responsibilities of Advisory Councils.—Each local educational agency shall give each advisory council which it establishes under subsection (a) responsibility for advising it in the planning for, and the implementation and evaluation of, its programs and projects assisted under this title.

"(c) Access to Information.—(1) Each local educational agency shall provide without charge to each member of an advisory council established by such agency under subsection (a) of this section—

"(A) a copy of the text of this title and of the General Education Provisions Act,

"(B) a copy of any Federal regulations and guidelines issued under such Act,

"(C) a copy of appropriate State regulations and guidelines associated with this title, and

"(D) appropriate training materials to enable such members to carry out all of the functions of a member of such council.

"(2) Each State educational agency shall furnish to each parent advisory council established under subsection (a) of this section in that State copies of reports and other appropriate documents prepared on behalf of or for the State educational agency as a result of monitoring and evaluation, including audits, of programs conducted under this title, insofar as such documents pertain to programs operated by the local educational agency.

"(d) Training of Advisory Council Members.—Each local educational agency application for funding under this title shall contain a description of a program of training, established by the local educational agency in full consultation with the members of the advisory councils established under subsection (a) of this section, which meets criteria developed by the Commissioner, which shall be provided to each such member, and which shall permit the use of funds under this title for attendance by such members at relevant local, State, regional, and national meetings."

"(e) Workshops on Parental Involvement.—For each fiscal year for which payments are made to State educational agencies under this title, the Commissioner shall sponsor workshops in the several regions of the United States which shall be designed to assist local educational agencies to work with parent advisory councils established under subsection (a) of this section and to facilitate parental involvement in the programs conducted under this title. The workshops shall be planned and conducted in consultation with members of parent advisory councils in the region served by the workshop and with organizations concerned with Federal education policy.

"(f) Model Training Programs.—The National Institute of Education shall develop models for successful parent involvement training programs conducted under title I, and shall report and disseminate the results of such study to the Congress and the public, in order to encourage the adoption of successful parental involvement training programs, or portions thereof, by schools and local educational agencies.

"(g) Authorization of Appropriations.—There are authorized to to be appropriated for the fiscal year 1979 and for each succeeding

fiscal year ending prior to October 1, 1983, such sums as may be necessary to carry out the provisions of subsections (e) and (f) of this section.

“*FUNDS ALLOCATION*

“Sec. 126. (a) Maintenance of Effort.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this title for any fiscal year only if the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year.

“(2) The Commissioner may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional and unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. In any case in which a waiver under this paragraph is granted, the Commissioner shall reduce the amount of Federal payment for the program affected for the current fiscal year in the exact proportion to which the amount expended (either on an average per pupil or aggregate basis) was less than the amount required by paragraph (1). However, this waiver may not be taken into account when computing the fiscal effort in subsequent years for the programs affected as required by paragraph (1).

“(3) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

“(b) Use of Funds Limited to Excess Costs.—Subject to the provisions of section 131, a local educational agency may use funds received under this title only for the excess costs of programs and projects referred to in section 124(a). As used in this subsection, the term ‘excess costs’ means costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects.

“(c) Federal Funds To Supplement, Not Supplant Regular Non-Federal Funds.—A local educational agency may use funds received under this title only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available for regular non-Federal sources and from non-Federal sources for State phase-in programs described in section 131(d) for the education of pupils participating in programs and projects assisted under this title, and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

“(d) Federal Funds Required To Supplement, Not Supplant Non-Federal Funds for Certain Special State and Local Programs.—A local educational agency may use funds received under this title only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available

from non-Federal sources for each of the special programs described in subsections (c) and (d) of section 131 for the education of educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools and in no case, as to supplant such funds from non-Federal sources. It shall not be considered a violation of this subsection for a local educational agency, in carrying out a special program described in subsections (c) and (d) of section 131, to take into consideration funds made available under this title, and to coordinate such special programs with programs using such Federal funds, provided that educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools, receive at least the same level of such special State and local funds that would have been made available to such children in the absence of funds under this title. For purposes of this subsection, the level of funds that, in the absence of funds under this title would have been made available to such children shall be determined by reference to a plan for distributing such special funds. Such plan shall be based on objective criteria of need that do not discriminate against educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools. The objective criteria chosen by the local educational agency shall prescribe, with particularity, the children as well as the schools, grade-spans, or school attendance areas eligible for assistance and the method for selecting the particular children who will receive assistance under such special State or local program and the schools or grade-spans which such children attend or the school attendance areas in which such children reside. The criteria for selecting children, schools, grade-spans, and school attendance areas for participation shall be either educational need, a reasonable proxy for educational need, level of poverty, or a combination of such factors. Educationally deprived children residing in eligible school attendance areas or attending eligible schools, satisfying such objective criteria, must receive assistance under either this title or under such special State or local program before any child who does not satisfy such criteria receives such assistance

"*(e) COMPARABILITY OF SERVICES.—Subject to the provisions of section 131, a local educational agency may receive funds under this title only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title. Where, under regulations of the Commissioner, all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable, in accordance with regulations of the Commissioner, in each project area. Each local educational agency shall report annually to the State educational agency with respect to its compliance with this subsection.*

"*ACCESS TO INFORMATION*

"*SEC. 127. Each local educational agency which applies for or receives funds under this title shall make the application, all relevant* *evaluations and reports, and all other pertinent documents related thereto available to parents, teachers, and other members of the general public.*

"COMPLAINT RESOLUTION

"Sec. 128. Each local educational agency which receives funds under this title shall develop and implement, in accordance with criteria prescribed by the Commissioner, written procedures for the resolution of complaints made to that agency by parent advisory councils, parents, teachers, or other concerned organizations or individuals concerning violations of this title, or of applicable provisions of the General Education Provisions Act in connection with programs under this title. Such procedures shall—

"(1) provide specific time limits for investigation and resolution of complaints, which shall not exceed thirty days;

"(2) provide an opportunity for the complainant or the complainant's representative, or both, to present evidence, including an opportunity to question parties involved;

"(3) provide the right to appeal the final resolution of the local educational agency to the State educational agency within thirty days after receipt of the written decision; and

"(4) provide for the dissemination of information concerning these procedures to interested parties, including all district and school parent advisory councils.

"INDIVIDUALIZED PLANS

"Sec. 129. It is the intent of the Congress to encourage, where feasible, the development for each educationally deprived child participating in a program under this title of an individualized written educational plan (maintained and periodically evaluated), agreed upon jointly by the local educational agency, the teacher, a parent or guardian of the child, and, when appropriate, the child.

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

"Sec. 130. (a) General Requirements.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including in projects assisted under this title special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) which meet the requirements of section 122, subsections (a), (b), and (d) of section 124, and subsections (b) and (c) of section 126, and which provide to those children an opportunity to participate in programs and projects assisted under this title on a basis equitable to that provided to similarly deprived children enrolled in public schools. Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of those children) to expenditures for children enrolled in the public schools of the local educational agency.

"(b) By-Pass Provision.—(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a) upon which determination the provisions of subsection (a) shall be waived.

"(3)(A) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative cost of arranging for the services, from the appropriate allocation or allocations under this title.

"(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of those services.

"(C) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

"(4) The Commissioner shall not take any final action under this subsection until the State educational agency and the local educational agency affected by that action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why that action should not be taken.

"(4)(A) The Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days' notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

"(B) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which said State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(C) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evi-

dence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(D) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"Subpart 4—Exemption From Certain Program Requirements

"EXCLUSIONS FROM EXCESS COSTS AND COMPARABILITY PROVISIONS FOR CERTAIN SPECIAL STATE AND LOCAL PROGRAMS

"SEC. 131. (a) IN GENERAL.—For the purpose of determining compliance with the requirement of section 126(b) (relating to use of funds only for excess costs of programs and projects) and of section 126(e) (relating to comparability of services between each project area school and nonproject area schools), a local educational agency may, at its option, exclude State and local funds expended for carrying out a special program or a State phase-in program.

"(b) SPECIAL PROGRAM AND STATE PHASE-IN PROGRAM DEFINED.—For purposes of this section—

"(1) a special program is limited to—

"(A) a State compensatory education program which the Commissioner has determined in advance under subsection (f) meets the requirements of subsection (c) and which the State educational agency determines is being implemented by the local educational agency in accordance with subsection (c);

"(B) a State compensatory education program which the Commissioner has determined in advance under subsection (f) does not satisfy the requirements of subsection (c), but which he has determined permits the local educational agency, at its option, to use such special State funds in accordance with subsection (c), provided that the local educational agency designs a program which the State educational agency determines in advance under subsection (g) meets the requirements of subsection (c) and which the State educational agency determines will be implemented by the local educational agencies in accordance with subsection (c);

"(C) a local compensatory education program which the State educational agency has determined in advance under subsection (g) meets the requirements of subsection (c) and which the State educational agency determines is being implemented in accordance with subsection (c); or

"(D) a bilingual program or special education program which meets the requirements of subsection (d); and

"(2) a State phase-in program is a program which the Commissioner has determined in advance under subsection (f) meets the requirements of subsection (e) and which the State educational

agency determines will be implemented by local educational agencies in accordance with subsection (e)

"(c) STATE AND LOCAL COMPENSATORY EDUCATION PROGRAMS SIMILAR TO TITLE I PROGRAMS.—A State or local program meets the requirements of this subsection if it is similar to programs assisted under this title. The Commissioner shall consider a State or local program to be similar to programs assisted under this subpart if—

"(1) all children participating in the program are educationally deprived,

"(2) the program is based on performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives,

"(3) the program provides supplementary services designed to meet the special educational needs of the children who are participating.

"(4) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of clauses (1), (2), and (3) of this subsection, and

"(5) the State educational agency monitors performance under the program to assure that the requirements of clauses (1), (2), (3), and (4) of this subsection are met.

"(d) BILINGUAL PROGRAMS OR SPECIAL EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN OR CHILDREN WITH SPECIFIC LEARNING DISABILITIES.—A bilingual program for children of limited English-speaking ability or a special program for handicapped program for handicapped children or children with specific learning disabilities meets the requirements of this subsection if such program provides services to children residing in project areas which are comparable to those provided similarly disadvantaged children residing in nonproject areas.

"(e) CERTAIN STATE PHASE-IN PROGRAMS.—A State education program which is being phased into full operation meets the requirements of this subsection if the Commissioner is satisfied that—

"(1) the program is authorized and governed specifically by the provisions of State law;

"(2) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

"(3) the program is based on objectives, including but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

"(4) parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

"(5) the program will benefit all children in a particular school or grade-span within a school;

"(6) schools participating in a program described in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

"(7) the phase-in period of the program is not more than six school years, except that the phase-in period for a program commenced prior to the date of enactment of the Education

Amendments of 1978 shall be deemed to begin on the date of enactment of such amendment;

"(8) at all times during such phase-in period at least 50 per centum of the schools participating in the program are the schools serving project areas which have the greatest number or concentrations of educationally deprived children or children from low-income families;

"(9) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would, in the absence of the phase-in program, have been provided for schools participating in such program;

"(10) the local educational agency is separately accountable, for purposes of compliance with paragraphs (1) through (6), (8), and (9) of this subsection, to the State educational agency for any funds expended for such program;

"(11) the local educational agencies carrying out the program are complying with paragraphs (1) through (6), (8), and (9) and the State educational agency is complying with paragraph (10).

"(f) ADVANCE DETERMINATIONS BY THE COMMISSIONER.—The Commissioner shall make an advance determination of whether or not a State program described in subsection (b)(1) (A) or (B) or (b)(2) meets the requirements of subsection (c) or meets the requirements of subsection (e). The Commissioner shall require each State educational agency to submit to him the provisions of State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for him to make such an advance determination. The Commissioner's determination shall be in writing and shall include the reasons for his determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Commissioner.

"(g) ADVANCE DETERMINATION BY THE STATE EDUCATIONAL AGENCY.—The State educational agency shall make an advance determination of whether or not a program described in subsection (b)(1)(C) meets the requirements of subsection (c). The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines, and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

"LIMITED EXEMPTION TO SUPPLEMENT, NOT SUPPLANT REQUIREMENT WHERE CERTAIN SPECIAL PROGRAMS FOR EDUCATIONALLY DEPRIVED CHILDREN ARE FULLY FUNDED

"SEC. 132. Whenever for a fiscal year—

"(1) a local educational agency provides special State and local funds for programs for educationally deprived children

which qualify under clause (A), (B), or (C) of section 131(a)(1) for an exception from the comparability and excess costs provisions under such section 131, and

"(2) the amount of such special State and local funds provided in eligible school attendance areas and for eligible schools when added to the Federal funds provided for programs under this subpart equals the funds such agency is eligible to receive for such fiscal year under section 111(a)(2) (without regard to adjustments under section 183), and under subpart 2 of part A,

then the local educational agency may, without being considered in violation of section 126(d), utilize additional State and local funds for special programs and projects which are solely for educationally deprived children residing in nonprofit areas or attending nonproject schools, including areas and schools ineligible for assistance under this title. The exemption in the preceding sentence does not apply to the extent the level of such special State and local funds, per child participating in such programs residing in ineligible school attendance areas or attending ineligible schools, exceeds the amount of funds, per child participating in programs in project areas provided to the agency under this part plus the amount of such special State or local funds provided for use in such areas.

"SCHOOLWIDE PROJECTS

"SEC. 133. (a) USE OF FUNDS FOR SCHOOLWIDE PROJECTS.—In the case of any school serving an attendance area that is eligible to receive services under this title and in which not less than 80 per centum of the children are from low-income families (in accordance with criteria established by the Commission), the local educational agency may carry out a project under this title to upgrade the entire educational program in that school if the requirements of subsection (b) are met.

"(b) DESIGNATION OF SCHOOLS.—A school may be designated for a schoolwide project under subsection (a) if—

"(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency providing for—

"(A) a comprehensive assessment of the educational needs of all students in the school, in particular the special needs of educationally deprived children, and

"(B) an instructional program designed to meet the special needs of all students in the school;

"(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, teacher aides, administrators, and secondary students if the plan relates to a secondary school;

"(3) the plan provides for consultation among those individuals as to the educational progress of all students;

"(4) the plan has been approved by the advisory council for that school established under section 124;

"(5) appropriate training is provided to teachers and teacher aides to enable them effectively to carry out the plan;

"*(6) the plan includes procedures for evaluation involving the participation of the individuals listed in paragraph (2), and opportunities for periodic improvements in the plan based on the results of those evaluations;*

"*(7) the average per pupil expenditure in the school (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in that school in the previous fiscal year; and*

"*(8) the average per pupil amount of Federal, State, and local compensatory education funds available to carry out the plan is at least 32 per centum of the average per pupil expenditure in that local educational agency, except as provided in subsection (c)(1) of this section.*

"*(c) APPROVAL OF SCHOOL; OPERATION OF PROJECT.—*

"*(1) The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b). The State educational agency may approve the plan of a local educational agency for a schoolwide project which does not meet the requirements of clause (8) of subsection (b) if the State educational agency determines that implementation of such a plan would result in a more efficient educational program in that school and would not cause a dilution of services to children of low-income families eligible for services under this title.*

(2) For any school which has such a plan approved, the local educational agency—

"*(1) shall, in order to carry out the plan, be relieved of any requirements under this title with respect to the commingling of funds provided under this title with funds available for regular programs;*

"*(2) shall not be required to identify particular children as being eligible to participate in programs assisted under this title; and*

"*(3) shall not be required to demonstrate that services provided with funds under this title are supplementary to the services regularly provided in the school.*

"*NONINSTRUCTIONAL DUTIES*

"*SEC. 134. Notwithstanding any provision of subpart 3 of this part, personnel paid entirely by funds made available under the title may be assigned to certain limited, rotating, supervisory duties not related to classroom instruction, the benefits of which are not limited to participating children under this title. Such duties may include only those to which similarly situated personnel not hired with funds made available under the title are assigned at the same school site, and for which such similarly situated personnel are paid, and may not exceed the same proportion of total time as similarly situated personnel at the same school site, or 10 per centum of the total time, whichever is less.*

"*Part B—Programs Operated by State Agencies*

"*Subpart 1—Programs for Migratory Children*

"*GRANTS—ENTITLEMENT AND AMOUNT*

"Sec. 141. (a) Entitlement.—A State educational agency or a combination of such agencies shall, upon application, be entitled to receive a grant for any fiscal year under this part to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen which meet the requirements of section 142.

"(b) Amount of Grant.—Except as provided in sections 155 and 156, the total grants which shall be made available for use in any State (other than Puerto Rico) for this subpart shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under section 142, the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the full-time equivalent number of migratory children who are in a State during the summer months, the Commissioner shall adjust the number so determined to take into account the special needs of those children for summer programs and the additional costs of operating such programs during the summer. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

"PROGRAM REQUIREMENTS

"SEC. 142. (a) REQUIREMENTS FOR APPROVAL OF APPLICATION.—The Commissioner may approve such an application only upon his determination—

"(1) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

"(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of subpart 3 of part A, other than sections 122, 123, 125, 126(d), and 130 thereof;

"(4) that, in planning and carrying out programs and projects at both the State and local educational agency level, there has been and will be appropriate consultation with parent advisory councils established in accordance with regulations of the Commissioner (consistent with the requirements of section 125(a)); and

"(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in paragraph (1) of this subsection after considering funds available for this purpose.

"(b) CONTINUATION OF MIGRANT STATUS.—For purposes of this subpart, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this section. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

"(c) BY-PASS PROVISION.—If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

"COORDINATION OF MIGRANT EDUCATION ACTIVITIES

"Sec. 143. (a) Activities Authorized.—The Commissioner is authorized to operate a system for the transfer among State and local educational agencies of migrant student records and to carry out other activities, in consultation with the States, to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students.

"(b) Authorization of Appropriations.—There are authorized to be appropriated for this section not more than 5 per centum of the total amount paid to State educational agencies under section 141.

"Subpart 2—Programs for Handicapped Children

"AMOUNT AND ELIGIBILITY

"Sec. 146. (a) Eligibility for Grant.—A State agency which is directly responsible for providing free public education for handicapped children (as that term is defined in section 602(1) of the Education of the Handicapped Act), shall be eligible to receive a grant under this subpart for any fiscal year.

"(b) Amount of Grant.—Except as provided in sections 156 and 157, the grant which a State agency referred to in subsection (a) (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

"(c) Counting of Children Transferring From State to Local Programs.—In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to

the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in section 147.

"PROGRAM REQUIREMENTS

"*SEC. 147. A State shall use the payments made under this subpart only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of handicapped children. Such programs and projects shall be administered and carried out in a manner consistent with subpart 3 of part A, other than sections 122, 123, 125, 126(d), 126(e), and 130 thereof. The State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) of section 146 will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.*

"*Subpart 3—Programs for Neglected and Delinquent Children*

"AMOUNT AND ENTITLEMENT

"*SEC. 151. (a) ENTITLEMENT TO GRANTS.—A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions).*

"*(b) AMOUNT OF GRANT.—Except as provided in sections 155 and 156, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this subpart shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure* *in the United States, 120 per centum of the average per pupil expenditure in the United States.*

"PROGRAM REQUIREMENT

"SEC. 152. (a) USE OF PAYMENTS.—*A State agency shall use payments under this subpart only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children or in adult correctional institutions. Such programs and projects shall be administered and carried out in a manner consistent with subpart 3 of part A, other than sections 122, 123, 125, 126(d), 126(e), and 130 thereof.*

"(b) THREE-YEAR PROJECTS.—*Where a State agency operates programs under this title in which childen are likely to participate for more than one year, the State educational agency may approve the application for a grant under this subpart for a period of more than one year, but not to exceed three years.*

"TRANSITION SERVICES

"SEC. 153. (a) GRANTS AUTHORIZED.—*The Commissioner is authorized to make grants to State and local educational agencies to support projects to facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs. Grants under this section shall be used to provide special educational services for such children in schools other than State operated institutions.*

"(b) APPROPRIATIONS AUTHORIZED.—*There are authorized to be appropriated for the purposes of this section for any fiscal year, not to exceed 5 per centum of the amount State agencies are entitled to receive under section 151 for that year.*

"Subpart 4—General Provisions for State Operated Programs

"RESERVATION OF FUNDS FOR TERRITORIES

"SEC. 156. *There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 per centum of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be allotted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purpose of this title.*

"MINIMUM PAYMENTS FOR STATE OPERATED PROGRAMS

"SEC. 157. *For any fiscal year ending prior to October 1, 1983—*

"(1) *no State shall receive an amount under subpart 1 or sub-*

part 3 of this part which is less than 85 per centum of the amount paid to that State in the preceding fiscal year under that subpart, or under section 122 of this Act as in effect immediately preceding the enactment of this section, whichever the case may be; and

"(2) no State shall receive an amount under subpart 2 of this part which is less than 100 per centum of the amount paid to that State in the preceding fiscal year under that subpart, or under section 121 of this Act as in effect immediately preceding the enactment of this section, whichever the case may be.

"Part C—State Administration of Programs and Projects

"Subpart 1—State Applications

"STATE PARTICIPATION

"Sec. 161. (a) Eligibility for Participation.—A State is eligible to participate in programs under this title if—

"(1) it has on file with the Commissioner a general State application under secton 501 of this Act, and

"(2) it has submitted to the Commissioner a plan meeting the requirements of subsection (b) for the monitoring of compliance by local eductaional agencies in the State with the requirements of this title and for the enforcement by the State of such requirements.

"(b) State Monitoring and Enforcement Plan.—A State monitoring and enforcement plan shall be submitted by the State educational agency at such times (at least once every three years) and in such detail as the Commissioner shall prescribe. The plan shall set forth—

"(1) a schedule of regular visits by State educational agency personnel to projects assisted under this title;

"(2) the matters to be reviewed in such visits;

"(3) procedures for verifying information provided by local educational agencies, including the use of other information available to the State to cross-check that information;

"(4) procedures for regular audits by the State of local educational agency expenditures under this title, and procedures for the recovery of any expenditures determined not to be allowable under this title;

"(5) procedures for resolving each complaint received by the State relating to programs assisted under this title, including complaints referred to the State by the Commissioner and complaints by representatives of children enrolled in private schools that such children are not receiving the services to which they are entitled under this title; and

"(6) a description of the means by which the State educational agency has determined, and will continue to determine, the compliance by local educational agencies with the requirements of section 130, relating to the equitable provision of services to children enrolled in private schools.

"(c) Reporting.—Each plan submitted by a State educational agency under this section shall include a report, in such form as the Commissioner shall prescribe, of the activities undertaken by the State in the years since the previous plan was filed to carry out its monitoring and enforcement efforts under this title.

"Subpart 2—Responsibilities of State Educational Agencies to Commissioner

"REPORTING

"Sec. 171. Each State educational agency shall make to the Commissioner (A) periodic reports (including the results of objective measurements required by section 123(g) and of research and replication studies) evaluating the (effectiveness of payments under this title and of particular programs assisted under it in improving the educational attainment of educationally deprived children and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year.

"RECORDKEEPING, FISCAL CONTROL, AND FUND ACCOUNTING

"Sec. 172. Each State educational agency which receives funds under this title shall keep such records as the Commissioner shall prescribe, including records which fully disclose the amount and disposition by such agency of such funds, the total cost of programs and projects in connection with which such funds are used, the amount of that portion of the cost of the program and project supplied by other sources, and such other records as will facilitate an effective audit.

"PROHIBITION ON CONSIDERATION OF FEDERAL AID IN DETERMINING STATE AID

"Sec. 173. No State shall take into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children during that year or the preceding fiscal year.

"PART D—FEDERAL ADMINISTRATION OF PROGRAMS AND PROJECTS

"APPLICABILITY

"Sec. 181. In addition to other requirements contained in this part, the requirements of the General Education Provisions Act which relate to Federal administration of elementary and secondary education programs shall apply to programs carried out under this title.

"APPROVAL OF APPLICATIONS

"Sec. 182. (a) Requirement for Approval.—The Commissioner shall not approve an application under section 161 until he has made

specific findings, in writing, that the application complies with this title, and that he is satisfied that the assurances in such application will be carried out.

"(b) HEARINGS.—The Commissioner shall not finally disapprove an application under section 14[illegible] or [illegible] except after notice and opportunity for a hearing to the State educational agency.

"PROGRAM EVALUATION

"SEC. 183. (a) INDEPENDENT EVALUATIONS.—The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs and projects.

"(b) DEVELOPMENT AND PUBLICATION OF STANDARDS.—The Commission shall develop and publish standards for evaluation of program or project effectiveness in achieving the objective of this title.

"(c) JOINTLY SPONSORED STUDIES.—The Commissioner shall, where appropriate, consult with State agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State.

"(d) EVALUATION MODELS.—The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this title, for their use in carrying out their functions under section 501(b)(4) of this Act, which shall include uniform procedures and criteria to be utilized by local educational agencies and State agencies, as well as by the State agency in the evaluation of such programs.

"(e) TECHNICAL ASSISTANCE.—The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies and State agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

"(f) SPECIFICATION OF OBJECTIVE CRITERIA.—The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and national basis.

"(g) REPORT TO CONGRESS.—The Commissioner shall make a report to the respective committees of the Congress having legislative jurisdiction over programs authorized by this title and the respective Committees on Appropriations no later than February 1 of each calendar year concerning the results of evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with other related find-

ings and evaluations and his recommendations with respect to legislation.

"(h) INFORMATION DISSEMINATION.—The Commissioner shall also develop a system for the gathering and dissemination of results of evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State agencies and local educational agencies responsible for the design and conduct of programs and projects under this title, and to the education profession and the general public.

"(i) MAXIMUM EXPENDITURES.—The Commissioner is authorized, out of funds appropriated to carry out this title in any fiscal year, to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed one-half of 1 percentum of the amount appropriated for such programs. In carrying out the provisions of this section, the Commissioner shall place priority on assisting States, local educational agencies, and State agencies to conduct evaluations and shall, only as funds are available after fulfilling that purpose, seek to conduct any national evaluations of the program.

"COMPLAINT RESOLUTION

"SEC. 184. The Commissioner shall develop and implement written procedures for receiving and resolving appeals from final resolutions of State educational agencies with respect to complaints concerning violations of this title or of applicable provisions of the General Education Provisions Act in connection with programs under this title, for receiving such complaints directly from parent advisory councils, parents, teachers, or other concerned organizations or individuals, and for conducting such independent onsite investigations of complaints if the Commissioner deems necessary. Such procedures shall include—

"(1) specific time limits for resolving the complaint or for completing the review and any necessary independent investigation, which shall not exceed sixty days unless exceptional circumstances exist;

"(2) an opportunity for the complainant, the complainant's representative, the local educational agency, and the State educational agency to present evidence;

"(3) a requirement that the complainant, the complainant's representative, the local educational agency, the State educational agency, State agency, the district parent advisory council, and appropriate school-parent advisory councils shall be notified, in writing, within ten days after the resolution of the appeal of the nature of the resolution, the reasons therefor, and the right to an administrative appeal; and

"(4) dissemination of information concerning the procedures.

"AUDITS AND AUDIT RESOLUTION

"SEC. 185. (a) AUDITING.—The Inspector General of the Department Health, Education, and Welfare shall make provision for audits of grants made under this title to determine, at a minimum, the fiscal in-

tegrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant.

"(b) AUDIT RESOLUTION AND REPAYMENT.—The Commissioner shall adopt procedures to assure timely and appropriate resolution of audit findings and recommendations arising out of audits provided for in subsection (a). Such procedures shall include timetables for each step of the audit resolution process and an audit appeals process. Where, under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, the Commissioner shall require the repayment of the amount of funds under this title which have been finally determined through the audit resolution process to have been misspent or misapplied. Such repayment may be made from funds derived from non-Federal sources or from Federal funds no accountability for which is required to the Federal Government. Such repayments may be made in either a single payment or in installment payments over a period not to exceed three years.

"WITHHOLDING OF PAYMENTS

"SEC. 186. (a) WITHHOLDING.—Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 141 or 161 the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall reduce or terminate further payments under this title to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under this title, or (2) payments by the State educational agency under this title shall be limited to local educational agencies and State agencies not affected by the failure or, (3) payments to particular local educational agencies shall be reduced, as the case may be. Where partial payments to a local educational agency are continued under this subsection, the expenditure of the payments shall be subject to such conditions as the Commissioner deems appropriate in light of the failure which led to the partial withholding. Pending the outcome of any proceedings under this subsection, the Commissioner may suspend payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

"(b) NOTICE TO PUBLIC OF COMMISSIONER WITHHOLDING.—Upon receipt by a State of a notice under subsection (a) that the Commissioner is withholding payments, the Commissioner shall take such action as may be necessary to bring his action to the attention of the public within the State.

"(c) COMPLIANCE AGREEMENT.—The Commissioner may suspend the initiation or continuation of his withholding action under subsection (a) during any period there is in effect a compliance agreement with the State educational agency under this subsection, except that if the

State educational agency fails to comply with the terms agreed to, such an agreement shall no longer be in effect and subsection (a) shall be fully operative. In implementing such subsection, the Commissioner shall take into account any partial compliance by such agency under such agreement. In any case in which a State educational agency desires to enter into a compliance agreement, but alleges that full compliance with the requirements of this title is genuinely not feasible until a future date, the Commissioner shall hold a hearing at which that agency shall have the burden of demonstrating that immediate compliance is not feasible. The Commissioner shall provide an opportunity for parents, their representatives, and other interested parties to participate in that hearing. If the Commissioner determines, on the basis of all the evidence presented to him, that immediate compliance is genuinely not feasible, he shall make written findings to that effect before entering into such a compliance agreement with that State educational agency. Any compliance agreement under this subsection shall not be exempt from disclosure under any provision of section 552 of title 5, United States Code. Within fifteen days after the execution of any compliance agreement under this subsection, the Commissioner shall send a copy thereof to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

"*POLICY MANUAL*

"*SEC. 187. (a) SCOPE AND PURPOSE.—The Commissioner shall, not later than 12 months after the publication of final regulations with respect to the amendments to this title made by the Education Amendments of 1978, prepare and distribute to State educational agencies, State agencies operating programs for neglected and delinquent and handicapped children, local educational agencies, and parents advisory councils established under section 125(a), and shall make available to other interested individuals, organizations, and agencies a title I policy manual to—*

"*(1) assist such agencies in (A) preparing applications for program funds under this title, (B) meeting the applicable program requirements under this title, and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this title;*

"*(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this title;*

"*(3) assist advisory councils established under section 125(a) in advising the local educational agencies in the planning for, and implementation and evaluation of, programs and projects under this title; and*

"*(4) insure that officers and employees of the Department of Health, Education, and Welfare, including, but not limited to, officers and employees of the Commissioner and officers and employees of such Department charged with auditing programs carried on under this title, uniformly interpret, apply, and enforce requirements under this title throughout the United States.*

"*(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried on under this title, contain descriptions,* *statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5, United States Code to be published or made available, the manual shall include (but not be limited to)—*

"(1) a statement of the requirements applicable to the programs carried on under this title including such requirements contained in this title, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

"(2) an explanation of the purpose of each requirement, including appropriate references to legislative history;

"(3) an explanation of the interrelationships between the applicable requirements;

"(4) a statement of the procedures to be followed by the Commissioner and the Secretary with respect to proper and efficient performance of their administrative responsibilities, including but not limited to (A) approving State applications or State plans, (B) distributing grants to appropriate agencies, (C) resolving problems discovered during monitoring visits, (D) resolving financial exceptions disclosed during audits, (E) collecting outstanding claims arising out of activities under this title, (F) resolving complaints, (G) responding to requests for advisory opinions interpreting and applying standards contained in applicable statutes and regulations to the public, (H) identifying and publicizing exemplary programs, and (I) making public final audit determinations of the Commissioner;

"(5) summaries of (i) advisory opinions referred to in subsection (b)(4)(G) of this section and (ii) final audit determinations referred to in subsection (b)(4)(I), including examples of actual applications of the legal requirements of applicable statutes and regulations;

"(6) model forms and instructions developed by the Commissioner for use by Staet and local educational agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs operated by applicant agencies;

"(7) summaries of appropriate court decisions concerning programs under this title;

"(8) examples of methods of distributing State and local funds which do and do not satisfy the applicable requirements under this title; and

"(9) model forms, policies, and procedures developed by State educational agencies.

"ENFORCEMENT REPORT

"SEC. 188. The Commissioner shall, not later than the end of the first, third, and fifth fiscal years beginning after the date of enactment of the Education Amendments of 1978 submit to the Congress a report concerning the enforcement of this title. The report submitted in the third and fifth such fiscal years shall contain—

"*(1) an analysis, for each State which has an application approved for that year under section 182, of the extent to which the assurances, policies, and procedures of that State submitted as part of that application satisfy the requirements of this title,*

"*(2) a description for each such State of the manner in which monitoring reports of the Commissioner were taken into consideration in the approval of such applications,*

"*(3) a description, with respect to appropriate States, of the manner in which unresolved audit and program monitoring findings were taken into consideration in the approval of such applications,*

"*(4) a description for each such State of the manner in which the annual evaluation report of that State was taken into consideration in the approval of such applications,*

"*(5) a summary of the findings of the Commissioner's on-site monitoring visits, of the actions taken by State educational agencies to correct problems identified in each report based on such visits, and of the number, type, and location of problems which have been so identified but which have not been corrected as of the date of the submission of the annual enforcement report under this section,*

"*(6) with respect to audits conducted under this title, (A) the number and type of audits conducted in the year preceding the date of submission of the report, (B) the identity of each State or local educational agency audited during that year, (C) the resolution status of each outstanding audit, including the dates on which each step of the resolution process with respect to such outstanding audit was completed, the schedule for completion of such process, the amount of the financial exceptions noted in final audit reports and in letters of final determination, and an explanation of any differences in such amounts as noted in draft audit reports, final audit reports, and letters of final determination, (D) the number and identity of any States which did not appeal to the audit hearing board for title I with respect to audits conducted during that year and the status of recoupment activities for each such State, (E) the number and identity of States which appealed to such board during that year and the status of each active appeal, (F) the number and identity of States which have completed such appeals during that year and the status of recoupment activities with respect thereto, (G) the number and type of any cases referred to the Attorney General during that year for collection of misspent funds, (H) the amount of any funds recovered during that year as a result of such audit resolution process, (I) an analysis of the type of violations identified in final audit reports, letters of final determination, and final decisions of the audit hearing board for title I and of the Commissioner on appeal from the decisions of such board, (J) a summary of audit followup actions conducted during that year for the purpose of determining that deficiencies which led to financial audit exceptions or audit findings of procedural noncompliance have been corrected, (K) a description of audits planned for the year succeeding the date of the submission of the report, and (L) recommendations for improvement of the audit resolution process, and*

"(7) with respect to complaints made to the Commissioner concerning programs under this title during the year preceding the date of submission of the report under this section, the number and type of complaints, the identity of the State and local educational agences, the action taken by the Commissioner to resolve the complaints, and the number and type of complaints which remain unresolved as of the date of such submission.

"PART E—PAYMENTS

"PAYMENT METHODS

"SEC. 191. The Commissioner shall, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this title. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

"AMOUNT OF PAYMENTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 192. From the funds paid to it pursuant to section 121 each State educational agency shall distribute to each local educational agency of the State which is eligible to receive a grant under this title and which has submitted an application approved pursuant to section 121 the amount for which such application has been approved.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 193. (a) ADJUSTMENT ALLOCATION.—If the sums appropriated for any fiscal year for making payments provided in this title other than amounts appropriated for subpart 2 of part A are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part B shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under subpart 1 of part A of this title for such year, the allocations to such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under subpart 1 of part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year.

"(b) Additional Funds Allocation.—In case additional funds become available for making payments under this title for that year, allocation that were reduced pursuant to subsection (a) shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State and (2) State educational agencies referred to in subpart 1 of part B must file applications. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under subsection (a) or (b) of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of paragraph (2) of section 111(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this title in such manner as the respective State educational agencies shall prescribe.

"RESERVATION OF FUNDS

"Sec. 194. Of the amounts appropriated for any fiscal year for carrying out the provisions of this title, not less than $400,000,000 or the amount appropriated for the preceding fiscal year, whichever is greater, shall be made available first for carrying out the provisions of section 117, and not less than the amount appropriated for the preceding fiscal year shall be made available for carrying out the provisions of section 116.

"Part F—General Provisions

"JUDICIAL REVIEW

"Sec. 195. (a) Filing.—If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under subpart 1 or part B or section 161 or with his final action under section 185 or 186, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner

thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(b) FINDINGS OF FACT, CONCLUSIVE.—The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) REVIEW.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"NATIONAL ADVISORY COUNCIL

"SEC. 196. (a) COUNCIL ESTABLISHED.—There shall be a National Advisory Council on the Education of Disadvantaged Children (hereinafter in this section referred to as the 'National Council') consisting of fifteen members appointed by the President, without regard to the provisions of title 5, United States Code, governing apppointment in the competitive service, for terms of three years, except that (1) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.

"(b) FUNCTIONS.—The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operations. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

"(c) REPORTS.—The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with re-

spect to such report. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, 1983.

“*LIMITATION ON GRANT TO PUERTO RICO*

“Sec. 197. The amount paid to Puerto Rico under this title for any fiscal year shall not exceed 150 per centum of the amount received by Puerto Rico in the preceding fiscal year, and any excess over that amount shall be used to ratably increase the allocations under section 111 of the other local educational agencies in the country whose allocations do not exceed the maximum amount for which they are eligible under section 111.

“*DEFINITIONS*

“Sec. 198. Except as otherwise provided, for purposes of this title:

“(1) Average daily attendance shall be determined in accordance with State law, except that not withstanding any other provision of this title, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this title the attendance of such child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

“(2) The term ‘average per pupil expenditure’ means in the case of a State or the United States, the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

“(3) The term ‘Commissioner’ means the United States Commissioner of Education.

“(4) The term ‘construction’ includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

“(5) The term ‘county’ means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

“(6) The term ‘current expenditures’ means expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, op-

eration and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this title **[***or parts B and C of title IV of this Act***]**.

"(7) The term 'elementary school' means a day or residential school which provides secondary education, as determined under State law, and the term 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(8) The term 'equipment' includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

"(9) The term 'free public education' means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provdided beyond grade 12.

"(10) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(11) The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(12) The term 'project area' means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this title.

"(13) The term 'school attendance area' means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

"(14) The term 'school facilities' means classrooms and related facilies (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

"(15) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(16) The term 'State' means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, the Virgin Islands,

the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"*(17) The term 'State educational agency' means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.*"

TITLE IV (P.L. 81-874)—GENERAL

ADMINISTRATION

SEC. 401. (a) (Repealed).

(b) The Commissioner shall administer this Act, and he may make such regulations and perform such other functions as he finds necessary to carry out the provisions of this Act.

(c) The Commissioner shall include in his annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursement.

USE OF OTHER FEDERAL AGENCIES; TRANSFER AND AVAILABILITY OF APPROPRIATIONS

SEC. 402. (a) In carying out his functions under this Act, the Commissioner is authorized, pursuant to proper agreement with any other Federal department or agency, to utilize the services and facilities of such department or agency, and, when he deems it necessary or appropriate, to delegate to any officer or employee thereof the function under section 6 of making arrangements for providing free public education. Payment to cover the cost of such utilization or of carrying out such delegated function shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

(b) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may occasion assistance under title I, shall to the maximum extent practicable comply with requests of the Commissioner for information he may require in carrying out the purposes of title I.

(c) Such portion of the appropriations of any other department or agency for the fiscal year ending June 30, 1951, as the Director of the Bureau of the Budget determines to be available for the same purposes as title I, shall except to the extent necessary to carry out during such year contracts made prior to the enactment of title I be transferred to the Commissioner for use by him in carrying out such purposes.

(d) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the employment of teaching personnel for the provision of free public education for children in any State or for payments to any local educational agency (directly or through the State educational agency) for free public education for children, except that nothing in the foregoing provisions of this subsection shall affect the availability of appropriations for the maintenance and operation of school facilities (1) on Federal property under the control of the Atomic Energy Commission or (2) by the Bureau of Indian Affairs, or the availability of appropriations for the making of payments directed to be made by section 91 of the Atomic Energy Community Act of 1955, as amended, or the availability of appropriations under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act (25 U.S.C., sec. 452).

DEFINITIONS

SEC. 403. For the purposes of this Act—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes (A) except for purposes of section 6, real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United tSates, any property considered prior to such sale or transfer to be Federal property for the purposes of this act, (C) any low-rent housing whether or not owned by the United States which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, and (D) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services.

(2) The term "child," [except as used in title II], means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person standing in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, [except that for the purposes of title II such term does not include any education provided beyond grade 12.]

(5) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay,

and debt service, or any expenditures made from funds granted under **[**title II of this Act or title II or III**]** *title I, II, or III* of the Elementary and Secondary Education Act of 1965.

(6) **[**(A)**]** For purposes of title I, the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education.

[(B) For purposes of title II, the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school, and it also includes (except for purposes of sections 203(a)(2), 203(b), and 205(a)(1)) any State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education) or for children in institutions for neglected or delinquent children.**]**

(7) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(8) The term "State" means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, or the Virgin Islands **[**,and for purposes of title II, such term includes the Trust Territory of the Pacific Islands**]**.

(9) The terms "Commissioner of Education" and "Commissioner" means the United States Commissioner of Education.

(10) Average daily attendance shall be determined in accordance with State law, except that (A) the average daily attendance of children with respect to whom payment is to be made under section 3 or 4 of this Act shall be determined in accordance with regulations of the Commissioner, and (B) not withstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the attendance of such child at such school shall be held and considered (i) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (ii) not to be attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

(11) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(12) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(13) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(14) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

[(15) For the purpose of title II, the term "elementary school" means a day or residental school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

[(16) For purposes of title II, the "average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available, of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

[(17) For the purposes of title II, "excess costs" means those costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects (but not including expenditures for any comparable State or local special programs, for educationally deprived children or expenditures for bilingual programs or special education for handicapped children or children with specific learning disabilities, if such expenditures for bilingual education and special education are used to provide, to children of limited English-speaking ability and handicapped children, and children with specific learning disabilities who reside in title I project areas, services which are comparable to those provided to similarly disadvantaged children residing in nonproject areas).]

Elementary and Secondary Education Act of 1965

(P.L. 89–10)

TITLES II, III, V, VII, AND VIII

AN ACT To strengthen and improve educational quality and educational opportunities in the Nation's elementary and secondary schools

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Elementary and Secondary Education Act of 1965".

[TITLE II—SCHOOL LIBRARY RESOURCES, TEXTBOOKS AND OTHER INSTRUCTIONAL MATERIALS[1][2]

[APPROPRIATIONS AUTHORIZED

[SEC. 201. (a) The Commissioner shall carry out a program for making grants for the acquisition of school library resources textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools.

[(b) For the purpose of making grants under this title, there are hereby authorized to be appropriated the sum of $100,000,000 for the fiscal year ending June 30, 1966, $125,000,000 for the fiscal year ending June 30, 1967, $150,000,000 for the fiscal year ending June 30, 1968, $162,500,000 for the fiscal year ending June 30, 1969, $200,000,000 for each of the fiscal years ending June 30, 1970, and June 30, 1971, $210,000,000 for the fiscal year ending June 30, 1972, and $220,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part B of title IV.

[ALLOTMENT TO STATES

[SEC. 202. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for payments to States under section 201(b). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition, he shall allot from such amount to (A) the Secretary of the Interior the amount necessary for such assistance for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payments for such purposes shall be made to the Secretary of Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purpose of this title.

[(2) From the sums appropriated for carrying out this title for any fiscal year pursuant to section 201(b), the Commissioner shall allot to each State an amount which bears the same ratio to the total of such sums as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States. The number of children so enrolled shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him. For purposes of this subsection, the term "State" shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

[(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for such fiscal year shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year from funds appropriated pursuant to section 201 shall be deemed part of its allotment under section (a) for such year.

[STATE PLANS

[SEC. 203. (a) Any State which desires to receive grants under this title shall submit to the Commissioner a State plan, in such detail as the Commissioner deems necessary, which—

[(1) designates a State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for administration of the State plan;

[(2) sets forth a program under which funds paid to the State from its allotment under section 202 will be expended solely for (A) acquisition of library resources (which for the purposes of this title means books, periodicals, documents, audio-visual materials, and other related library materials), textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools in the State, and (B) administration of the State plan, including (i) the development and revision of standards relating to library resources, textbooks, and other printed and published instructional materials furnished for the use of children and teachers in the public elementary and secondary schools of the State, and (ii) the distribution and control by a local educational agency of such library resources, textbooks, and other instructional materials in carrying out such State plan for the use of children and teachers in schools referred to in clause (A), except that the amount used for administration of the State plan for any fiscal year shall not exceed an amount equal to 5 per centum of the amount paid to the State under this title for that year or $50,000, whichever is greater;

[(3) sets forth the criteria to be used in allocating library resources, textbooks, and other printed and published instructional materials provided under this title among the children and teachers of the State, which criteria shall—

[(A) take into consideration the relative need, as determined from time to time, of the children and teachers of the State for such library resources, textbooks, or other instructional materials,

[(B) provide assurance that to the extent consistent with law such library resources, textbooks, and other instructional materials will be provided on an equitable basis for the use of children and teachers in private elementary and secondary schools in the State which comply with the compulsory attendance laws of the State or are otherwise recognized by it through some procedure customarily used in the State,

[(C) provide assurance that, in order to secure the effective and efficient use of Federal funds, there will be appropriate coordination at both State and local levels between the program carried out under this title with respect to library resources and the program (if any) carried out under the Library Services and Construction Act (20 U.S.C. ch. 16), and

[(D) provide assurance that equal consideration shall be given to the needs of elementary and secondary schools for library resources, textbooks, and other printed and published materials utilized for instruction, orientation, or guidance and counseling in occupational education.

[(4) sets forth the criteria to be used in selecting the library resources, textbooks, and other instructional materials to be provided under this title and for determining the proportions of the State's allotment for each fiscal year which will be expended for library resources, textbooks, and other printed and published instructional materials, respectively, and the terms by which such library resources, textbooks, and other instructional materials will be made available for the use of children and teachers in the schools of the State;

[(5) sets forth policies and procedures designed to assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of State, local, and private school funds that would in the absence of such Federal funds be made available for library resources, textbooks, and other printed and published instructional materials, and in no case supplant such State, local, and private school funds;

[(6) sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including any such funds paid by the State to any other public agency) under this title; and

[(7) provides for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

[(b) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

PAYMENTS TO STATES

[SEC. 204. (a) From the amounts allotted to each State under section 202 the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan. Such payments may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on accounting of overpayments or underpayments.

[(b) In any State which has a State plan approved under section 203(b) and in which no State agency is authorized by lav to provide library resources, textbooks, or other printed and published instructional materials for the use of children and teachers in any one or more elementary or secondary school in such State, the Commissioner shall arrange for the provision on an equitable basis of such library resources, textbooks, or other instructional materials for such use and shall pay the cost thereof for any fiscal year ending prior to July 1, 1978, out of that State's allotment.

[PUBLIC CONTROL OF LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIAL AND TYPES WHICH MAY BE MADE AVAILABLE

[SEC. 205. (a) Title to library resources, textbooks, and other printed and published instructional materials furnished pursuant to this title, and control and administration of their use, shall vest only in a public agency.

[(b) The library resources, textbooks, and other printed and published instructional materials made available pursuant to this title for use of children and teachers in any school in any State shall be limited to those which have been approved by an appropriate State or local educational authority or agency for use, or are used, in a public elementary or secondary school of that State.

ADMINISTRATION OF STATE PLANS

[SEC. 206. (a) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State agency administering the plan reasonable notice and opportunity for a hearing.

[(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to such State agency, finds—

[(1) that the State plan has been so changed that it no longer complies with the provisions of section 203(a), or

[(2) that in the administration of the plan there is a failure to comply substantially with any such provisions,

the Commissioner shall notify such State agency that the State will not be regarded as eligible to participate in the program under this title until he is satisfied that there is no longer any such failure to comply.

[JUDICIAL REVIEW

[SEC. 207. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under section 203(a) or with his final action under section 206(b), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

[(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"TITLE II—BASIC SKILLS AND EDUCATIONAL PROFICIENCY

"PART A—BASIC SKILLS

"PURPOSE

"SEC. 201. (a) The purpose of this title is—

"(1) to assist Federal, State, and local educational agencies to coordinate the utilization of all available resources for elementary and secondary education to improve instruction so that all children are able to master the basic skills of reading, mathematics, and effective communication, both written and oral;

"(2) to encourage States to develop comprehensive and systematic plans for improving achievement in the basic skills;

"(3) to provide financial assistance to State and local educational agencies for the development of programs in the basic skills;

"(4) to develop means by which parents working with the schools can contribute to improving the educational achievement of their children;

"(5) to encourage the involvement of the private sector in the delivery to children, youths, and adults of educational services and materials that will improve achievement in the basic skills; and

"(6) to expand the use of television and other technology in the delivery of instructional programs aimed at improving achievement in the basic skills.

"(b) This title may be cited as the 'Basic Skills and Educational Quality Act'.

"APPLICATIONS

"Sec. 202. (a) The Secretary may make a grant or award a contract under this title only upon the submission of an application by an eligible entity at the time and in the form prescribed by the Secretary. Each such application by a State or local educational agency shall provide assurances that—

"(1) is designing the proposal for which application is made, the needs of chidren in nonprofit private elementary and secondary schools have been taken into account through consultation with private school officials; and, to the maximum extent feasible, and consistent with the number of such children in the area to be served who have the educational needs the proposal is intended to address, those children will be provided an opportunity to participate in the proposed activity on a basis comparable to that provided for public school children;

"(2) procedures have been developed to evaluate the effectiveness of the proposed activity in achieving the purposes of this title; and

"(3) procedures have been developed for incorporating successful practices developed with assistance under this title into the regular instructional program.

"(b) No grant or contract may be awarded to a local educational agency under this title unless the appropriate State educational agency has been provided an opportunity for at least thirty days to comment on the application.

"ACCEPTANCE OF GIFTS

"Sec. 203. Notwithstanding the provisions of section 408(a)(3) of the General Education Provisions Act, the Secretary may accept, on behalf of the United States, conditional or unconditional gifts or donations of services, money, or property, made for any activities authorized to be carried out under this title.

"GRANTS AND CONTRACTS

"Sec. 204. (a) In order to achieve the purposes of this title, the Secretary is authorized, during the period of October 1, 1979, through September 30, 1983, to make grants to, and enter into contracts with, State and local educational agencies, and other public and private agencies, organizations, and institutions to carry out planning, research, development, demonstrations (including training of leadership personnel, evaluation, and dissemination, as described in sections 205 through 210), except that no grant may be made under this title to other than a public or nonprofit private agency, organization, or institution.

"(b) The Secretary may provide to such agencies, organizations, and institutions, either directly or through grants or contracts, technical assistance related to the purposes of this title.

"INSTRUCTION IN BASIC SKILLS

"Sec. 205. The Secretary shall provide assistance, in accordance with section 204, for activities designed to demonstrate improved delivery of instructional services in the areas of reading, mathematics, and oral and written communication, including—

"(1) assessment of schoolwide needs to identify the instructional needs of children in basic skills;

"(2) establishing learning goals and objectives for each school;

"(3) the development of comprehensive programs to address the needs through the use of available resources available under this title and other resources from local, State, and Federal programs;

"(4) the demonstration of techniques for coordinating the efforts of local agencies, organizations, and institutions, to improve achievement in basic skills;

"(5) preservice training programs for teaching personnel including teacher aides and other ancillary educational personnel, and in-service training and development programs, designed to enable such personnel to improve their ability to teach basic skills; and

"(6) active involvement of teachers, teacher aides, administrators, and other educational personnel to improve their ability to utilize available resources to carry out the purposes of this title.

"STATE PROGRAMS TO IMPROVE ACHIEVEMENT IN BASIC SKILLS

Sec. 206. (a) The Secretary shall provide financial and technical assistance to State educational agencies that desire to develop and implement comprehensive statewide plans for improving the skills of children, youths, and adults in reading, mathematics, and oral and written communication.

"(b) The activities which may be assisted under this section include—

"(1) the development of a comprehensive statewide program providing for the coordination of all Federal and State programs that provide instruction in basic skills;

"(2) planning activities that involve local administrators, teachers, and parents in the development of strategies to improve instruction in basic skills;

"(3) statewide assessment of need relating to basic skills, including the needs of both students and instructional personnel;

"(4) in-service training programs for local administrators, instructional personnel, and other staff members involved in instruction in basic skills; and

"(5) the provision of technical assistance and the dissemination of information relating to basic skills instruction to local educational agencies and other organizations and institutions involved in programs of instruction in basic skills.

“*PARENTAL PARTICIPATION IN BASIC SKILLS INSTRUCTION*

“*SEC. 207. The Secretary, in accordance with section 204, shall support activities designed to enlist the assistance of parents and volunteers working with schools to improve the skills of their children in reading, mathematics, and oral and written communication. The activities which may be supported under this section include—*

“(*1*) *the development and dissemination of materials that, with appropriate training, parents may use in the home to improve their children's performance in those skills; and*

“(*2*) *voluntary training activities for parents to encourage them to assist their children in developing basic skills.*

“*USE OF TECHNOLOGY IN BASIC SKILLS INSTRUCTION*

“*SEC. 208. The Secretary, in accordance with section 204, shall support development and demonstration activities related to the improved use of television and other technology to contribute to the instruction of children in reading, mathematics, and written and oral communication. The activities authorized under this section shall be designed to expand the variety and improve the quality of instructional efforts involving the use of technology. The activities which may be supported under this section include—*

“(*1*) *the development and acquisition of educational programing, including audio and video materials distributed through broadcast, cable, tape, film, cassettes, or other means that provide instruction in basic skills in an effective manner;*

“(*2*) *the development and acquisition of instructional materials that supplement educational programing described above in order to improve its effectiveness in the school, the home, and other learning environments;*

“(*3*) *the development and acquisition of materials to assist teachers in relating such programing, or similar public or commercial programs of educational value, to instruction in the classroom;*

“(*4*) *the training of teachers, administrators, and other instructional personnel in the use of educational technology;*

“(*5*) *assistance to teachers, administrators, and other instructional personnel for experimentation with new technological approaches to instruction; and*

“(*6*) *distribution of information about, and promotion of the use of, such programing and technology in the classroom and other learning environments.*

“*INVOLVEMENT OF PRIVATE ORGANIZATIONS*

“*SEC. 209. The Secretary shall provide assistance and information to private agencies, organizations, and institutions (such as labor unions, volunteer organizations, and business associations) to support the efforts of such agencies, organizations, and institutions to stimulate children, youths, and adults to improve their achievement in basic skills. The activities which may be supported under this section include—*

"(1) programs to motivate children to improve their reading skills through the distribution to children of books;

"(2) voluntary tutorial programs to provide individual assistance outside of the school to children, youths, and adults with instructional needs; and

"(3) community efforts to encourage individuals to improve their performance in basic skills.

"COLLECTION AND DISSEMINATION OF INFORMATION RELATING TO BASIC SKILLS PROGRAMS

"SEC. 201. The Secretary is authorized to use funds appropriated under this title to collect and analyze information concerning the results of activities carried out under this title and under part C of title IV, including information on the activities which have been successful in improving the achievement of students in the basic skills. Such funds may also be used to disseminate that information to State and local educational agencies and other interested public and private agencies, organizations, and institutions.

"STUDY

"SEC. 211. From sums appropriated under this title, the National Institute of Education shall undertake a survey of teachers of basic skills to identify their level of training, the teaching methods they use in teaching basic skills, and the relative effectiveness of such methods in meeting the educational needs of children.

"COORDINATION

"SEC. 212. The Secretary shall establish effective and efficient procedures for coordination between the program assisted under this title and programs assisted under title I and title V of this Act, title V of the Economic Opportunity Act of 1964, and title V of the Higher Education Act of 1965.

"APPROPRIATIONS

"SEC. 213. There are authorized to be appropriated to carry out the provisions of sections 201 through 212 of this title such sums as may be necessary for fiscal year 1980 and for each of the three succeeding fiscal years.

"INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION

"SEC. 214. (a) The Commissioner is authorized (1) to enter into a contract with a private nonprofit group or public agency (hereinafter in this section referred to as the 'contractor'), which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivational programs which include the distribution of inexpensive books to students and (2) to pay the Federal share of the cost of such programs.

"(b) The contract shall provide that—

"(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies

(hereinafter referred to as 'subcontractors') which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift or loan, to preelementary, elementary or secondary schoolchildren;

"(2) funds made available by the Commissioner to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishnig and operating reading motivational programs as provided in paragraph (1); and

"(3) the contractor will meet such other conditions and standards as the Commissioner determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide technical assistance in furtherance of the purposes of this section.

"(c) The Commissioner shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless he determines that the contractor or the subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) For purposes of this section—

"(1) the term 'nonprofit', when used in connection with any organization, means an organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(2) the term 'Federal share' means, with respect to the cost of books purchased by a local private nonprofit group, organization, or public agency for a program in a locality for distributing such books to schoolchildren in that locality, 75 per centum of the cost of that agency or group or organization for such books for such program; except when such nonprofit group, organization or public agency has within the two years preceding its application for assistance, received Federal funds under a program to benefit migrant and seasonal farmworkers in which the Federal share was 100 per centum. In that case the term 'Federal share', under this section, shall mean 100 per centum of the cost of that agency or group or organization for such books that are distributed to the children of migrant and seasonal farmworkers;

"(3) the term 'preelementary school' means a day or residential school which provides preelementary education, as determined under State law, except that such term does not include education for children who have not attained three years of age;

"(4) the term 'elementary school' has the same meaning as provided in section 801(c) of the Elementary and Secondary Education Act of 1965; and

"(5) the term 'secondary school' has the same meaning as provided in section 801(h) of the Elementary and Secondary Education Act of 1965.

"(e) There are authorized to be appropriated to carry out the provisions of this section $9,000,000 for fiscal year 1979, $10,000,000 for

fiscal year 1980, $11,000,000 for fiscal year 1981, and $12,000,000 for each of the two succeeding fiscal years. Under such conditions as the Commissioner determines to be appropriate, not to exceed 10 per centum of the amounts appropriated for each fiscal year shall be available for a contract from the Commissioner to the contractor designated under subsection (a) of this section for technical assistance under subsection (b)(3) of this section to carry out the provisions of such section.

"SPECIAL MATHEMATICS PROGRAM

"SEC. 215. (a) The Commissioner is authorized to make grants to, and enter into contracts with, one or more private nonprofit agencies, institutions, or organizations, for the conduct, in cooperation with one or more local educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under this Act through instruction in advanced mathematics by qualified instructors with bachelor's degrees in mathematics, or the mathematical sciences, from colleges or other institutions of higher education, or equivalent experience.

"(b) There are authorized to be appropriated such sums for fiscal year 1979 and for each of the four succeeding fiscal years, to carry out the provisions of this section.

"PART B—EDUCATIONAL PROFICIENCY STANDARDS

"GRANTS TO IMPLEMENT EDUCATIONAL PROFICIENCY STANDARDS

"SEC. 221. (a) The Commissioner is authorized to make grants to any State educational agency (or to any local educational agency located in a State in which the State educational agency has not submitted an application for a grant under this section) to carry out any plan approved by the Commissioner in accordance with this section to assist students in achieving levels of educational proficiency compatible with basic standards established by such educational agency.

"(b)(1) Each applicant which desires to receive a grant under this section may submit an application to the Commissioner. Any such application shall be submitted in such form, and in accordance with such procedures, as the Commissioner shall require and shall contain an educational proficiency plan, as described in paragraph (2) of this subsection.

"(2) The educational proficiency plan referred to in paragraph (1) of this subsection—

"(A) shall contain a description of the educational proficiency standards established by the applicant for reading, writing, mathematics, and any other subject for which the Commissioner may require such standards;

"(B) shall contain a description of the programs designed to assist students in achieving levels of educational proficiency compatible with the standards described in subparagraph (A) of this paragraph;

"(C) may provide for the administration of examinations to students, at specified intervals or grade levels, to measure their reading, writing or mathematical proficiency, or their proficiency

in other subjects which the applicant considers appropriate for testing; and

"*(D) shall contain the assurances of the applicant that any student who fails any examination provided for under subparagraph (C) of this paragraph shall be offered supplementary instruction in the subject matter covered by such examination.*

"*(c) The Commissioner shall award a grant to any applicant, in such amounts as the Commissioner considers appropriate, only if (1) the Commissioner approves the educational proficiency plan submitted by the applicant pursuant to subsection (b) of this section and (2) the application submitted pursuant to such subsection satisfies all other requirements established by the Commissioner. Grants awarded under this section may be used by applicants to implement their educational proficiency plans, including the provision of supplementary instruction which would be provided to students who fail the examinations.*

"*(d) Nothing in this section shall authorize the Commissioner to impose tests on State educational agencies or local educational agencies, and no such agency shall be compelled in any way to apply for funds under this section.*

"*(e) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year 1979, and for each of the four succeeding fiscal years.*

"*ACHIEVEMENT TESTING ASSISTANCE*

"*SEC. 222. (a) The Commissioner is authorized, either directly or through grants or contracts awarded to State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions, to assist State and local educational agencies to develop their capacity to conduct programs of testing the achievement in the basic skills of children in elementary and secondary schools. The activities which may be supported under this section include—*

"*(1) disseminating information to State and local educational agencies on the availability and uses of achievement tests;*

"*(2) training of and assistance to administrators, teachers, and other instructional personnel in the use of tests and test results; and*

"*(3) research and education designed to determine improved means of assessing more accurately the achievement of children in basic skills and of diagnosing instructional needs.*

"*(b) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1979 and for each of the three fiscal years thereafter.*".

[TITLE III—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES; GUIDANCE, COUNSELING, AND TESTING

[APPROPRIATIONS AUTHORIZED

[SEC. 301. (a) The Commissioner shall carry out a program for making grants for supplementary educational centers and services, to stimulate and assist in the provision of vitally needed educational services not available in sufficient quantity or quality, and stimulate and assist in the development and establishment of exemplary elementary and secondary school educational programs to serve as models for regular school programs, and to assist the States in establishing and maintaining programs of testing and guidance and counselnig.

[(b) For the purpose of making grants under this title, there is hereby authorized to be appropriated the sum of $550,000,000 for the fiscal year ending June 30, 1971, $575,000,000 for the fiscal year ending June 30, 1972, and $605,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV. In addition, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the succeeding fiscal years, such sums as may be necessary for the administration of State plans, the activities of advisory councils, and the evaluation and dissemination activities required under this title, except that no funds are authorized to be appropriated for obligation by the Commission during any year for which funds are available for obligation by the Commissioner for carrying out part C of Title IV.

[ALLOTMENT AMONG STATES

[SEC. 302. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for grants under this title. The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition, he shall allot from such amount to (A) the Secretary of the Interior the amount necessary to provide programs and projects for the purpose of this title for individuals on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payments for such purpose shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

[(2) From the sums appropriated for making grants under this title for any fiscal year pursuant to section 301(b), the Commissioner shall allot $200,000 to each State and shall allot the remainder of such sums among the States as follows:

[(A) He shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States, and

[(B) He shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the population of the State bears to the population of all the States.

For the purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

[(b) The number of children aged five to seventeen, inclusive, and the total population of a State and of all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

[(c) The amount allotted to any State under subsection (a) for any fiscal year, which the Commissioner determines will not be required for the period for which that amount is available, shall be available for grants pursuant to section 306 in such State, and if not so needed may be reallotted or used for grants pursuant to section 306 in other States. Funds available for reallotment may be reallotted from time to time, on such dates during that period as the Commissioner may fix, among other States in proportion to the amounts originally allotted among those States under subsection (a) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates that State needs and will be able to use for that period; and the total of these reductions may be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection from funds appropriated pursuant to section 301 for any fiscal year shall be deemed to be a part of the amount allotted to it under subsection (a) for that year.

[(d) The amounts made available under the first sentence of subsection (c) for any fiscal year shall remain available for grants during the next succeeding fiscal year.

[USES OF FEDERAL FUNDS

[SEC. 303 (a) It is the purpose of this title to combine within a single authorization, subject to the modifications imposed by the provisions and requirements of this title, the programs formerly authorized by this title and title V–A of the National Defense Education Act of 1958, and except as expressly modified by this title, Federal funds may be used for the same purposes and the funding of the same types of programs previously authorized by those titles.

[(b) Funds appropriated pursuant to section 301 shall be available only for grants in accordance with applications approved pursuant to this title for—

[(1) planning for and taking other steps leading to the development of programs or projects designed to provide supplementary educational activities and services described in paragraphs (2) and (3), including pilot projects designed to test the effectiveness of plans so developed;

[(2) the establishment or expansion of exemplary and innovative educational programs (including dual-enrollment programs and the lease or construction of necessary facilities) for the purpose of stimulating the adoption of new educational programs (including those described in section 503(4) and special programs for handicapped children) in the schools of the State; and

[(3) the establishment, maintenance, operation, and expansion of programs or projects, including the lease or construction of necessary facilities and the acquisition of necessary equipment, designed to enrich the programs of local elementary and secondary schools and to offer a diverse range of educational experience to persons of varying talents and needs by providing, especially through new and improved approaches, supplementary educational services and activities, such as—

[(A) remedial instruction, and school health, physical education, recreation, psychological, social work, and other services designed to enable and encourage persons to enter, remain in, or reenter educational programs, including the provision of special educational programs and study areas during periods when schools are not regularly in session;

[(B) comprehensive academic services and, where appropriate, vocational guidance and counseling, for continuing adult education;

[(C) programs designed to encourage the development in elementary and secondary schools of occupational information and counseling and guidance, and instruction in occupational eduation on an equal footing with traditional academic education;

[(D) specialized instruction and equipment for students interested in studying advanced scientific subjects, foreign languages, and other academic subjects which are not taught in the local schools or which can be provided more effectively on a centralized basis, or for persons who are handicapped or of preschool age;

[(E) making available modern educational equipment and specially qualified personnel, including artists and musicians, on a temporary basis for the benefit of children in public and other nonprofit schools, organizations, and institutions;

[(F) developing, producing, and transmitting radio and television programs for classroom and other educational use;

[(G) in the case of any local educational agency which is making a reasonable tax effort but which is nevertheless unable to meet critical educational needs (including preschool education), because some or all of its schools are seriously overcrowded, obsolete, or unsafe, initiating and carrying out programs or projects designed to meet those needs, particularly those which will result in more effective use of existing facilities;

[(H) providing special educational and related services for persons who are in or from rural areas or who are or have been otherwise isolated from normal educational opportunities, including, where appropriate, the provision of mobile educational services and equipment, special home study courses, radio, television, and related forms of instruction, bilingual education methods and visiting teachers' programs;

[(I) encouraging community involvement in educational programs;

[(J) providing programs for gifted and talented children; and

[(K) other specially designed educational programs or projects which meet the purposes of this title; and

[(4) programs for testing students in the public and private elementary and secondary schools and in junior colleges and technical institutes in the State, and programs designed to improve guidance and counseling services at the appropriate levels in such schools.

[(c) In addition to the uses specified in subsection (b), funds approriated for carrying out this title may be used for—

[(1) proper and efficient administration of State plans;

[(2) obtaining technical, professional, and clerical assistance and the services of experts and consultants to assist the advisory councils authorized by this title in carrying out their responsibilities; and

[(3) evaluation of plans, programs, and projects, and dissemination of the results thereof.

[APPLICATION FOR GRANTS; CONDITIONS FOR APPROV

[SEC. 304. (a) A grant under this title pursuant to an approval State plan or by the Commissioner for a supplementary educational center or service program or project may be made only to a local educational agency or agencies, and then only if there is satisfactory assurance that, in the planning of that program or project there has been, and in the establishment and carrying out thereof there will be, participation of persons broadly representative of the cultural and educational resources of the area to be served. The term "cultural and educational resources" includes State educational agencies, institutions of higher education, nonprofit private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources. Such grants may be made only upon application to the appropriate State eductional agency or to the Commissioner, as the case may be, at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

[(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant:

[(2) set forth a program for carrying out the purposes set forth in section 303(b) and provide for such methods of administration as are necessary for the proper and efficient operation of the programs;

[(3) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in section 303(b), and in no case supplant such funds;

[(4) provide, in the case of an application for assistance under this title which includes a project for the construction of necessary facilities satisfactory assurance that—

[(A) reasonable provision has been made, consistent with the other uses to be made of the facilities, for areas in such facilities which are adaptable for artistic and cultural activities,

[(B) upon completion of the construction, title to the facilities will be in a State or local educational agency, and

[(C) in developing plans for such facilities (i) due consideration will be given to excellence of architecture and design and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and (ii) there will be compliance with such standards as the Secretary may prescribe or approve in order to insure that, to the extent appropriate in view of the uses to be made of the facilities, such facilities are accessible to and usable by handicapped persons;

[(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

[(6) provide for making an annual report, and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the area served, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

[(b) An application by a local educational agency for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

[(1) meets the requirements set forth in subsection (a);

[(2) provides that the program or project for which application is made—

[(A) will utilize the best available talents and resources and will substantially increase the educational opportunities in the area to be served by the applicant, and

[(B) to the extent consistent with the number of children enrolled in nonprofit private schools in the area to be served whose educational needs are of the type provided by the program or project, makes provision for the participation of such children; and

[(3) has been reviewed by a panel of experts.

[(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

[STATE PLANS

[SEC. 305. (a)(1) Any State desiring to receive payments for any fiscal year to carry out a State plan under this title shall (A) establish within its State educational agency a State advisory council (hereinafter referred to as the State advisory council) which meets the requirements of this subsection, (B) set dates before which local educational agencies must have submitted applications for grants to the

State educational agency, and (C) submit to the Commissioner, through its State educational agency, a State plan at such time and in such detail as the Commissioner may deem necessary. The Commissioner may, by regulation, set uniform dates for the submission of State plans and applications.

[(2) The State advisory council, established pursuant to paragraph (1) shall—

[(A) be appointed by the State educational agency, and be broadly representative of the cultural and educational resources of the State (as defined in section 304(a)) and of the public, including persons representative of—

[(i) elementary and secondary schools,

[(ii) institutions of higher education, and

[(iii) areas of professional competence in dealing with children needing special education because of physical or mental handicaps;

[(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, the State plan, including the development of criteria for approval of applications under such State plan;

[(C) review, and make recommendations to the State educational agency on the action to be taken with respect to, each application for a grant under the State plan;

[(D) evaluate programs and projects assisted under this title; and

[(E) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and to the National Advisory Council, established pursuant to this title, at such times, in such form, and in such detail, as the Secretary may prescribe.

[(3) Not less than ninety days prior to the beginning of any fiscal year in which a State desires to receive a grant under this title, such State shall certify the establishment of, and membership of, its State advisory council to the Commissioner.

[(4) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and select from its membership a chairman. The time, place, and manner of meeting shall be as provided by such council, except that such council shall have not less than one public meeting each year at which the public is given opportunity to express views concerning the administration and operation of this title.

[(5) State advisory councils shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this title and to contract for such services as may be necessary to enable them to carry out their evaluation functions.

[(b) The Commissioner shall approve a State pan, or modification thereof if he determines that the plan submitted for that fiscal year—

[(1)(A) except inthe case of funds available for the purpose described in paragraph (4) of section 303(b), sets forth a program (including educational needs, and their basis, and the manner in which the funds paid to the State under this title shall be used in meeting such educational needs) under which funds paid to the State under section 307(a) will be expended solely for the improvement of education in the State through grants to local educational agencies for programs or projects in accordance with sections 303 and 304; *Provided*, That, in the case of a State educational agency that also is a local educational agency, its approval of a program or project to be carried out by it in the latter capacity shall, for the purposes of this title, be deemed an award of a grant by it upon application of a local educational agency if the State plan contains, in addition to the provisions otherwise required by this section, provisions and assurances (applicable to such programs or project) that are fully equivalent to those otherwise required of a local educational agency;

[(B) in the case of funds available for the purpose described in paragraph (4) of section 303(b), sets forth—

[(i) a program for testing students in the public elementary and secondary schools of such State or in the public junior colleges and technical institutes of such State, and, if authorized by law, in other elementary and secondary schools and in other junior colleges and technical institutes in such State, to identify students with outstanding aptitudes and abilty, and he means of testing which will be utilized in carrying out such program; and

[(ii) a program of guidance and counseling at the appropriate levels in the public elementary and secondary schools or public junior colleges and technical institutes of such State, (A) to advise students of courses of study best suited to their ability, aptitudes and skills, (B) to advise students in their decisions as to the type of educational program they should pursue, the vocation they train for and enter, and the job opportunities in the various fields, and (C) to encourage students with outstanding aptitudes and ability to complete their secondary school education, take the necessary courses for admission to institutions of higher education, and enter such institutions and such programs may include, at the discretion of such State agency, short-term sessions for persons engaged in guidance and counseling in elementary and secondary schools, junior colleges, and technical institutes in such State;

[(2) sets forth the administrative organization and procedures, including the qualifications for personnel having responsibilities in the administration of the plan in such detail as the Commissoner may prescribe by regulation;

[(3) sets forth criteria for achieving an equitable distribution of assistance under this title, which criteria shall be based on consideration of (A) the size and population of the State, (B) the geographic distribution and density of the population within the State, and (C) the relative need of persons in different geographic areas and in different population groups within the State for the kinds of services and activities described in section 303, and the financial ability of the local educational agencies serving such persons to provide such services and activities;

[(4) provides for giving special consideration to the application of any local educational agency which is making a reasonable tax effort but which is nevertheless unable to meet critical educational needs, including preschool education for four- and five-year-olds and including where appropriate bilingual education, because some or all of its schools are seriously overcrowded (as a result of growth or shifts in enrollment or otherwise), obsolete, or unsafe;

[(5) provides that, in approving applications for grants for programs or projects, applications proposing to carry out programs or projects planned under this title will receive special consideration;

[(6) provides for adoption of effective procedures (A) for the evaluation, at least annually, of the effectiveness of the programs and projects, by the State advisory council, supported under the State plan in meeting the purposes of this title (B) for appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects, and (C) for adopting, where appropriate, promising educational practices developed through such programs or projects;

[(7) provides that not less than 50 per centum of the amount which such State receives to carry out the plan in such fiscal year shall be used for purposes of paragraphs (1) and (2) of section 303(b);

[(8) provides that not less than 15 per centum of the amount which such State receives to carry out the plan in such fiscal year shall be used for special programs or projects for the education of handicapped children;

[(9) sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this title for any fiscal year (A) will not be commingled with State funds, and (B) will be so used as to supplement and, to the extent practical, increase the fiscal effort (determined in accordance with criteria prescribed by the Commissioner, by regulation) that would, in the absence of such Federal funds, be made by the applicant for educational purposes;

[(10) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State under this title;

[(11) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the areas served by the programs or projects supported under the State plan and in the State as whole, including reports of evaluations made in accordance with objective measurements under the State plan pursuant to paragraph (6), and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

[(12) provides that final action with respect to any application (or amendment thereof) regarding the proposed final disposition thereof shall not be taken without first affording the local educational agency or agencies submitting such application reasonable notice and opportunity for a hearing; and

[(13) contains satisfactory assurance that, in determining the eligibility of any local educational agency for State aid or the amount of such aid, grants to that agency under this title shall not be taken into consideration.

[(c) The Commissioner may, if he finds that a State plan for any fiscal year ending prior to October 1, 1978, is in substantial compliance with the requirements set forth in subsection (b), approve that part of the plan which is in compliance with such requirements and make available (pursuant to section 307) to that State that part of the State's allotment which he determines to be necessary to carry out that part of the plan so approved. The remainder of the amount which such State is eligible to receive under this section may be made available to such State only if the unapproved portion of that State plan has been so modified as to bring the plan into compliance with such requirements: *Provided*, That the amount made available to a State pursuant to this subsection shall not be less than 50 per centum of the maximum amount which the State is eligible to receive under this section.

[(d) A State which has had a State plan approved for any fiscal year may receive for the purpose of carrying out such plan, an amount not in excess of 85 per centum of its allotment pursuant to section 302.

[(e)(1) The Commissioner shall not finally disapprove any plan submitted under subsection (a), or any modification thereof, without first affording the State educational agency submitting the plan reasonable notice and opportunity for a hearing.

[(2) Whenever the Commissioner, after reasonable notice and opportunity for hearings to any State educational agency, finds that there has been a failure to comply substantially with any requirement set forth in the plan of that State approved under section 305 or with any requirement set forth in the application of a local educational agency approved pursuant to section 304, the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency, shall not make further payments under this title to specified local educational agencies affected by the failure) until his is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies not affected by the failure, as the case may be.

[(3)(A) If any State is dissatisfied with the Commissioner's final action with respect to the approval of a plan submitted under subsection (a) or with his final action under paragraph (2), such State may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

[(B) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings.

[(C) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[(f)(1) If any local educational agency is dissatisfied with the final action of the State educational agency with respect to approval of an application of such local agency for a grant pursuant to this title, such local agency may, within sixty days after such final action or notice thereof, whichever is later, file with the United States court necessary for the activities described in section 303(c), during any fiscal year, except that (1) the total of such payments shall not be in excess of an amount equal to 7½ per centum of its allotment for that fiscal year or, $150,000 ($50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater, and (2) in such payment, the amount paid for the administration of the State plan for any fiscal year shall not exceed an amount equal to 5 per centum of its allotment for that fiscal year or $100,000 ($35,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater.

[(c) The Commissioner shall pay to each applicant which has an application approved pursuant to section 306 the amount necessary to carry out the program or project pursuant to such application.

[(d) Payments under this section may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

[(e) No payments shall be made under this title to any local educational agency or to any State unless the Commissioner finds, in the case of a local educational agency, that the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort per student or the aggregate expenditures for that purposes for the second preceding fiscal year or, in the case of a State, that the fiscal effort per student or the aggregate expenditures of that State for State aid (as defined by regulation) with respect to the provision of free public education in that State for the preceding fiscal year was not less than such fiscal effort per student or the aggregate expenditures for State aid for the second preceding fiscal year.

[(f)(1) In any State which has a State plan approved under section 305(c) and in which no State agency is authorized by law to provide, or in which there is a substantial failure to provide, for effective participation on an equitable basis in programs authorized by this title by children enrolled in any one or more private elementary or secondary schools of such State in the area or areas served by such programs, the Commissioner shall arrange for the provision, on an equitabe basis, of such programs and shall pay the costs thereof for any fiscal year out of that State's allotment. The Commissioner may arrange for such programs through contracts with institutions of higher education, or other competent nonprofit institutions or organizations.

[(2) In determining the amount to be withheld from any State's allotment for the provision of such programs, the Commissioner shall take into account the number of children and teachers in the area or areas served by such programs who are excluded from participation therein and who, except for such exclusion, might reasonably have been expected to participate.

[(g)(1) The Commissioner shall not take any final action under subsection (f) until he has afforded the State educational agency and the local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

[(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under paragraph (1) of this paragraph, it may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

[(3) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[RECOVERY OF PAYMENTS

[SEC. 208. If within twenty years after completion of any construction for which Federal funds have been paid under this title—

[(a) the owner of the facility shall cease to be a State or local educational agency, or [(b) the facility shall cease to be used for the educational and related purposes for which it was constructed, unless the Commissioner determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entited to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

[NATIONAL ADVISORY COUNCIL

[SEC. 309. (a) The President shall appoint a National Advisory Council on Supplementary Centers and Services which shall—

[(1) review the administration of, general regulations for, and operation of this title, including its effectiveness in meeting the purposes set forth in section 303;

[(2) review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to section 305(a)(2)(E);

[(3) evaluate programs and projects carried out under this title and disseminate the results thereof; and

[(4) make recommendations for the improvement of this title, and its administration and operation.

[(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of twelve members, a majority of whom shall be broadly representative of the educational and cultural resources of the United States including at least one person who has professional competence in the area of education of handicapped children. Such members shall be appointed for terms of 3 years except that (1) in the case of the initial members, four shall be appointed for terms of 1 year each and four shall be appointed for terms of 2 years each, and (2) appointments to fill the unexpired portion of any terms shall be for such portion only. When requested by the President, the Secretary of Health, Education, and Welfare shall engage such technical and professional assistance as may be required to carry out the functions of the Council, and shall make available to the Council such secretarial, clerical and other assistance and such pertinent data prepared by the Department of Health, Education, and Welfare, as it may require to carry out its functions.

[(c) The Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this title) to the President and the Congress not later than January 20 of each year. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448(b) of the General Education Provisions Act, the Council shall continue to exist until October 1, 1978, except that the Council shall not exist during any year for which funds are available for obligation by the Commissioner for carrying out title IV.]

"TITLE III—SPECIAL PROJECTS

"PART A—GENERAL PROVISIONS

"STATEMENT OF PURPOSE

"SEC. 301. It is the purpose of this title to authorize the Commissioner to carry out special projects—

"(1) to experiment with new educational and administrative methods, techniques, and practices;

"(2) to meet special or unique educational needs or problems;

"(3) to place special emphasis on national education priorities; and

"(4) to disseminate information to State and local educational agencies.

"GRANTS AND CONTRACTS AUTHORIZED

"SEC. 302. (a) The Commissioner is authorized, during the period of October 1, 1979, through September 30, 1983, to make grants to, and enter into contracts with, State and local educational agencies, other public and private agencies, organizations, and institutions, and individuals to carry out the purposes of this title, except that no grant may be made under this title to other than a public agency or nonprofit private organization, or institution, or to an individual under section 303(b)(2) of this part.

"(b) No grant or contract may be awarded under this title to a State or local educational agency unless the Commissioner determines that in designing the proposal for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with private school officials; and, to the maximum extent feasible, and consistent with the number of such children in the area to be served who have the educational needs the proposal is intended to address, those children will be provided an opportunity to participate in the proposed activity on a basis comparable to that provided for public school children.

"COMMISSIONER'S DISCRETIONARY PROECTS

"SEC. 303. (a) From the amount available for the purposes of this section, the Commissioner is authorized, through grants or contracts, to carry out innovative or experimental projects to assist in the development or demonstration of methods, techniques, or practices which contribute to the solution of educational problems and which are consistent with the purposes of this title.

"(b) The Commissioner is also authorized, from the amount available for the purposes of this section, to make grants not to exceed \$25,000, to teachers, administrators, other educational personnel, and parent organizations to assist in the development or demonstration of innovative methods or techniques which would contribute to the solution of educational problems.

"(c)(1) There are authorized to be appropriated for the purposes of this section such sums as may be necessary for fiscal year 1980 and for each of the three succeeding fiscal years.

"(2) From the sums appropriated for any fiscal year for the purposes of this title (other than sums appropriated pursuant to paragraph (1) of this subsection), the Commissioner is authorized to reserve not more than 10 per centum of such sums for the purposes of this section, except that the Commissioner shall not reserve more than 10 per centum from the amount appropriated for that fiscal year for any one of those parts.

"PART B—METRIC EDUCATION

"SHORT TITLE; DECLARATION OF PURPOSE

"SEC. 311. (a) This part may be cited as the 'Metric Education Act of 1978'.

"(b)(1) The Congress finds that—

"(A) the metric system of measurement is in general use in industrially developed nations and its use is increasing;

"(B) increased use of such metric system in the United States is inevitable, and such a metric system will become the dominant system of weights and measures in the United States; and

"(C) a Federal program is vitally necessary if the American people are to adapt to the use of the metric system of weights and measures.

"(2) It is the purpose of this part to encourage and support programs that prepare students to use the metric system of measurement with ease and facility as a part of the regular education program.

"PROGRAM AUTHORIZED

"SEC. 312. (a) The Commissioner shall carry out a program of grants and contracts to encourage educational agencies and institutions to prepare students to use the metric system of measurement. Activities assisted under this part may include—

"(1) the development, demonstration, improvement, or adaptation of programs of education in the use of the metric system;

"(2) training educational personnel to carry out programs in the use of the metric system;

"(3) the development and dissemination of instructional materials for use in metric education programs; and

"(4) other activities that will encourage and assist students to learn the use of the metric system.

"(b) For the purposes of this part, the term 'metric system of measurement' means the international system of units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

"APPLICATION

"SEC. 313. Financial assistance under this part may be made only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably prescribe. The application shall be approved only if it—

"(1) provides that the activities and services for which assistance is sought will be administered by, or under the supervision of, the applicant;

"(2) describes a program which holds promise of making a substantial contribution toward attaining the purpose of this part;

"(3) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application; and

"(4) contains such other provisions as the Commissioner determines necessary in order to accomplish the purpose of this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 314. There are authorized to be appropriated $20,000,000 for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of this part.

"PART C—ARTS IN EDUCATION

"SHORT TITLE; STATEMENT OF FINDINGS

"SEC. 321. (a) This part may be cited as the 'Arts in Education Act of 1978'.

"(b)(1) The Congress finds that—

"(A) the arts should be an essential and vital component of every student's education;

"(B) the arts provide students with useful insights to all other areas of learning; and

"(C) a Federal program is necessary to foster and maintain the interrelationship of arts and education.

"(2) It is the purpose of this part to encourage and support programs that recognize and stress the essential role the arts can play in elementary and secondary education.

"PROGRAM AUTHORIZED

"SEC. 322. The Commissioner shall carry out a program of grants and contracts to encourage and assist State and local educational agencies and other public and private agencies, organizations, and institutions to establish and conduct programs in which the arts are an integral part of elementary and secondary school curricula. Activities carried out under this part may include arrangements with public and private cultural organizations, agencies, and institutions, including museums, libraries, and theaters, to achieve the purpose of this part. Furthermore, the Commissioner may carry out a program to develop and implement model projects and programs in the performing arts for children and youth, through arangements made with the John F. Kennedy Center for the Performing Arts. In addition, the Commissioner may carry out a program for the purpose of identifying, developing, and implementing model projects or programs in all the arts for handicapped persons through arrangements made with the National Committee, Arts for the Handicapped.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 323. There are authorized to be appropriated $20,000,000 for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983 to carry out the provisions of this part.

"PART D—CONSUMER EDUCATION

"SHORT TITLE; STATEMENT OF FINDINGS

"SEC. 331. (a) This part may be cited as the 'Consumer Education Act of 1978'.

"(b) The Congress finds that—

"(1) in an inflated economy, the American consumer is finding that the dollar is buying less and less;

"(2) the consumer needs useful information in order to make wise economic choices; and

"(3) Federal involvement is needed to encourage and support the development of consumer education programs throughout the country.

"OFFICE OF CONSUMER EDUCATION

"SEC. 332. (a) There shall be within the Office of Education an Office of Consumers' Education (hereafter in this section referred to as the 'Office') which shall be headed by a Director of Consumers' Education (hereafter in this section referred to as the 'Director') who, subject to the management of the Commissioner, shall have responsibility for carrying out the provisions of this section.

"(b) The Director shall be appointed by the Commissioner in accordance with the provisions of title 5 of the United States Code relating to appointments to the competitive service.

"PROGRAM AUTHORIZED

"SEC. 333. (a) The Commissioner shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private agencies, organizations, and institutions (including libraries) to support research, demonstration, and pilot projects designed to provide consumer education to the public except that no grant may be made other than to a nonprofit agency, organization, or institution.

"(b) Funds appropriated for grants and contracts under this part shall be available for such activities as—

"(A) the development of curricula (including interdisciplinary curricula) in consumer education;

"(B) dissemination of information relating to such curricula;

"(C) in the case of grants to State and local educational agencies and institutions of higher education, for the support of education programs at the elementary and secondary and higher education levels; and

"(D) preservice and in-service training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with consumer education.

In addition to the activities specified in the first sentence of this subsection, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any such activities, whether or not assisted under this section. Activities assisted pursuant to this section shall provide bilingual assistance when appropriate.

"APPLICATION

"Sec. 334. Financial assistance under this part may be made available only upon the application to the Commissioner. Each application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it—

"(1) provides that the activities and service for which assistance is sought will be administered by, or under the supervision of, the applicant.

"(2) describes a program for carrying out one or more of the activities described in section 333(b) which hold promise of making a substantial contribution toward attaining the purposes of this part;

"(3) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

"(4) sets forth policies and procedures which assure that Federal funds made available under this part for any fiscal year will be so used as to supplement and, to the extent practical increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

"(5) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of an accounting for Federal funds paid to the applicant under this part; and

"(6) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"REPORTS AND EVALUATIONS

"Sec. 335. Each recipient of Federal funds under this part shall make such reports and evaluations as the Commissioner shall prescribe by regulation.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 336. There are authorized to be appropriated $20,000,000 for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of this part.

"PART E—YOUTH EMPLOYMENT

"PROGRAM AUTHORIZED

"Sec. 341. (a) The Commissioner shall carry out a youth employment program, the purpose of which shall be to prepare children to take their place as working members of society.

"(b) The program carried out under this part shall support activities designed to—

"(1) study the relationship of work to academic and intellectual achievement;

"(2) develop ways to improve achievement in basic educational skills through work experience;

"(3) enhance job opportunities for youths by coordinating educational activities with youth employment activities, particularly those carried out by the Secretary of Labor under part C of title III and title VIII of the Comprehensive Employment and Training Act of 1973;

"(4) encourage educational agencies and institutions to develop means to award academic credit for competencies derived from work experience; and

"(5) provide technical assistance, information, training, and other assistance to eligible entities to develop programs to enable students more readily to make the transition from school to work.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 342. There is authorized to be appropriated $7,500,000 for the fiscal year 1979 and for each succeeding fiscal year ending prior to 1983 to carry out the provisions of this part.

"PART F—LAW-RELATED EDUCATION

"SHORT TITLE; DECLARATION OF FINDINGS

"SEC. 346. (a) This part may be cited as the 'Law-Related Education Act of 1978.'.

"(b) The Congress finds and declares that—

"(1) there is a widespread lack of understanding of how our system of law and legal institutions works;

"(2) such an understanding is an essential component in developing faith and appreciation in our democratic system of government and in preparing our youth to be knowledgeable, responsible citizens; and

"(3) there is an urgent need for Federal involvement designed to encourage and support the development of law-related education programs.

"PROGRAM AUTHORIZED

"SEC. 347. (a) The Commissioner shall carry out a program of grants and contracts to encourage State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to provide law-related education programs.

"(b) For the purposes of this part, the term 'law-related education' means education to equip nonlawyers with knowledge and skills pertaining to the law, the legal process and the legal system, and the fundamental principles and values on which these are based.

"(c) Financial assistance under this part may be made available only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation.

"(d) Funds appropriated for grants and contracts under this part shall be available for activities such as—

"(1) awareness activities, to provide educators, law-related personnel, and the public with an understanding of what law-related education is;

"(2) support for new and ongoing programs in elementary and secondary schools, adult education, community organizations, and institutions of higher education, to provide law-related education, to develop materials and methods, to conduct pilot and demonstration projects, and to disseminate the products of these activities;

"(3) clearinghouse and technical assistance, to collect and provide information and assistance on existing experience and resources to institutions, groups, agencies, organizations, and individuals to aid in establishing, improving, and expanding law-related education activities;

"(4) training for educators and law-related personnel in the substance and practice of law-related education, including preservice and in-service seminars, workshops, institutes, and courses;

"(5) research and evaluation, to study and improve the effectiveness of materials and methods in law-related education;

"(6) involvement of law-related organizations, agencies and personnel, such as lawyers, law schools, law students, and law enforcement personnel, in the provision of law-related education activities; and

"(7) youth internships for outside-the-classroom experience with the law and the legal system.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 348. There is authorized to be appropriated $15,000,000 for the fiscal 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of this part.

"PART G—ENVIRONMENTAL EDUCATION

"SHORT TITLE; DECLARATION OF FINDINGS; PURPOSE

"SEC. 351. (a) This part may be cited as the 'Environmental Education Act of 1978'.

"(b) The Congress finds and declares that—

"(1) the deterioration of the quality of the Nation's environment and of its ecological balance poses a serious threat to the strength and vitality of the people of the Nation;

"(2) that this deterioration is in part due to poor understanding of the Nation's environment and of the need for ecological balance.

"(3) that existing resources are not adequate for educating and informing citizens about environmental matters; and

"(4) that the Federal Government should encourage and support efforts to educate citizens about environmental quality and ecological balance.

"(c) It is the purpose of this part to encourage and support the development of new and improved curricula to encourage under-

standing of policies, and support of activities designed to enhance environmental quality and maintain ecological balance while giving due consideration to the economic considerations related thereto; to demonstrate the use of such curricula in model educational programs and to evaluate the effectiveness thereof, to provide support for the initiation and maintenance of programs in environmental education at the elementary and secondary levels; to disseminate curricular materials and other information for use in educational programs throughout the Nation; to provide training programs for teachers, other educational personnel, public service personnel, and community, labor, and industrial and business leaders and employees, and government employees at State, Federal, and local levels; to provide for the planning of outdoor ecological study centers; to provide for community education programs on preserving and enhancing environmental quality and maintaining ecological balance; and to provide for the preparation and distribution of materials by mass media in dealing with the environment and ecology.

"*OFFICE OF ENVIRONMENTAL EDUCATION*

"*SEC. 352. (a)(1) There is established within the Office of Education an Office of Environmental Education (referred to in this section as the 'Office') which, under the supervision of the Commissioner, through regulations promulgated by the Secretary, shall be responsible for (A) the administration of the program authorized by section 353 and (B) the coordination of activities of the Office of Education which are related to environmental education. The Office shall be headed by a Director who shall be compensated at a rate not to exceed that prescribed for grade GS–17 in section 5332 of title 5, United States Code.*

"*PROGRAM AUTHORIZED*

"*SEC. 353. (a) For the purposes of this part, the term 'environmental education' means the educational process dealing with man's relationship with the Earth and his effect on the Earth and his relationship with his natural and manmade surroundings, and includes the relations of energy, population, pollution, resource allocation and depletion, conservation, transportation, technology, economic impact, and urban and rural planning to the total human environment.*

"*(b)(1) The Commissioner shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, regional educational research organizations, and other public and private agencies, organizations, and institutions (including libraries and museums) to support research, demonstrations, and pilot projects designed to educate the public on the problems of environmental quality and ecological balance, except that no grant may be made other than to a nonprofit agency, organization, or institution.*

"*(2) Funds appropriated for grants and contracts under this part shall be available for such activities as—*

"*(A) the development of curricula (including interdisciplinary curricula) in the preservation and enhancement of environmental quality and ecological balance;*

"(B) dissemination of information relating to such curricula and to environmental education, generally;

"(C) in the case of grants to State and local educational agencies, or group of such agencies, for the support of environmental education programs at the elementary and secondary education levels;

"(D) preservice and in-service training programs and projects (including fellowship programs, institutes, workshops, symposia, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with environmental quality and ecology or to develop interdisciplinary strategies and programs of environmental quality and ecology and for public service personnel, Government employees and business, labor, and industrial leaders and employees;

"(E) planning of outdoor ecological study centers;

"(F) community education programs on environmental quality, including special programs for adults;

"(G) preparation and distribution of materials suitable for use by the mass media in dealing with the environment and ecology; and

"(H) establishing prize contests in the elementary and secondary schools in the area of energy, the emphasis to be placed upon stimulating new thinking about ways to better understand and solve the energy crisis.

In addition to the activities specified in the first sentence of this paragraph, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any such activities, whether or not assisted under this section.

"APPLICATION

"SEC. 354. (a) Financial assistance under this part may be made available only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Secretary shall prescribe by regulation and shall be approved only if it—

"(1) provides that the activities and services for which assistance is sought will be administered by, or under the supervision of, the applicant;

"(2) describes a program for carrying out one or more of the activities described in section 353(b)(2) which holds promise of making a substantial contribution toward attaining the purposes of this part;

"(3) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

"(4) sets forth policies and procedures which assure that Federal funds made available under this part for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds.

"(5) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(6) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(b) Applications from local educational agencies for financial assistance under this part may be approved by the Commissioner only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

"(c) Amendments of applications shall, except as the Secretary may otherwise provide by or pursuant to regulation, be subject to approval in the same manner as original applications.

"(d) Federal assistance to any program or project under this section, other than those involving curriculum development, dissemination of curricular materials, and evaluation, shall not exceed 80 per centum of the cost of such program for the first fiscal year of its operation, including costs of administration, unless the Commissioner determines, pursuant to regulations adopted and promulgated by the Secretary establishing objective criteria for such determinations, that assistance in excess of such percentages is required in furtherance of the purposes of this section. The Federal share for the second year shall not exceed 60 per centum, and for the third year and each succeeding fiscal year 40 per centum. Non-Federal contributions may be in cash or kind, fairly evaluated, including but not limited to plant, equipment, and services.

"TECHNICAL ASSISTANCE

"SEC. 355. The Secretary of Health, Education, and Welfare, in cooperation with the heads of other agencies with relevant jurisdiction, shall insofar as practicable upon request, render technical assistance to local educational agencies, public and private nonprofit organizations, institutions of higher education, agencies of local, State, and Federal governments and other agencies deemed by the Secretary to play a role in preserving and enhancing environmental quality and maintaining ecological balance. The technical assistance shall be designed to enable the recipient agency to carry on education program which are related to environmental quality and ecological balance.

"SPECIAL GRANTS

"SEC. 356. (a) In addition to the grants authorized under section 353, the Commissioner, from the sums appropriated, shall have the authority to make grants, in sums not to exceed $10,000 annually, to nonprofit organizations such as citizens' groups, volunteer organizations working in the environmental field, and other public and private nonprofit agencies, institutions, or organizations for conducting courses, workshops, seminars, symposia, institutes, and conferences, especially for adults and community groups (other than the group funded).

"(b) Priority shall be given to proposals demonstrating innovative approaches to environmental education.

"(c) For the purposes of this section, the Commissioner shall require evidence that the interested organization or group shall have been in existence one year prior to the submission of a proposal for Federal funds and that it shall submit an annual report on Federal funds expended.

"(d) Proposals submitted by organizations and groups under this section shall be limited to the essential information required to evaluate them, unless the organization or group shall volunteer additional information.

"ADMINISTRATION

"SEC. 357. In administering the provisions of this part, the Commissioner is atuhorized to utilize the services and facilities of any agency of the Federal Government and of any other public or private agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon. The Commissioner shall publish annually a list and description of projects supported under this part and shall distribute such list and description to interested educational institutions, citizens' groups, conservation organizations, and other organizations and individuals involved in enhancing environmental quality, and maintaining ecological balance.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 358. (a) There is authorized to be appropriated $5,000,000 for the fiscal year 1979, $7,000,000 for the fiscal years 1980, $9,000,000 for the fiscal year 1981, $11,000,000 for the fiscal year 1982, and $13,000,000 for the fiscal year 1983 to carry out the provisions of this part. Funds appropriated under this part shall remain available to the Commissioner for the duration of this part in order to permit multiple-year funding of projects under this part.

"(b) For each fiscal year, not to exceed $500,000 of the sums appropriated under this part shall be available for the purpose of carrying out section 353(b)(2)(H).

"PART H—HEALTH EDUCATION

"SHORT TITLE; DECLARATION OF PURPOSE

"SEC. 361. (a) This part may be cited as the "Health Education Act of 1978".

"(b)(1) The Congress finds and declares that—

"(A) there is an increased concern for physical health and well-being;

"(B) an understanding of the principles of good health can play a vital role in preventing illness and diseases;

"(C) a Federal program is needed to assist State and local educational agencies in developing health education programs.

"(2) It is the purpose of this part to encourage and support programs that prepare students to maintain their physical health and well-being, and to prevent illnesses and diseases, as a part of the regular education program.

“PROGRAM AUTHORIZED

“SEC. 362. The Commissioner is authorized to make grants to State and local educational agencies to establish and support programs in health education such as—

“(1) antismoking activities;
“(2) dental care;
“(3) mental health;
“(4) nutrition;
“(5) physical hygiene;
“(6) physical fitness;
“(7) first aid; and
“(8) training of educational personnel in general health education.

“APPLICATION

SEC. 363. Financial assistance under this part may be made only upon application to the Commissioner. Each such application shall contain assurances that any funds received under this part will be used in a coordinated and cooperative manner with any other health education related program that the applicant may be undertaking, and shall not duplicate such other programs.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 364. There are authorized to be appropriated $20,000,000 for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of this part.

“PART I—CORRECTION EDUCATION

“SHORT TITLE

“SEC. 371. This may be cited as the ‘Correction Education Demonstration Project Act of 1978’.

“PROGRAM AUTHORIZED

“SEC. 372. (a) The Commissioner is authorized to make grants to State and local educational agencies, institutions of higher education, and other public and private nonprofit agencies, organizations, and institutions for demonstration projects relating to the academic and vocational education of antisocial, aggressive, or delinquent persons, including juvenile delinquents, youth offenders, and adult criminal offenders. All projects shall include an evaluation component.

“(b) Financial assistance under this part may be made available only upon application to the Commissioner. The application shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably prescribe.

“TECHNICAL ASSISTANCE

“SEC. 373. The Commissioner is authorized to appoint such special or technical advisory committees as he may deem necessary to advise *him on matters of general policy relating to the education of persons intended to be benefited by this section, and shall secure the advice and recommendations of the Director, Bureau of Prisons; Administrator Office of Juvenile Justice and Delinquency Prevention; Director of the Teacher Corps; the Director of the National Institute of Law Enforcement and Criminal Justice; the Administrator of the Law Enforcement Assistance Administration, and such other persons and organizations as he, in his discretion, deems necessary before making any grant under this section.*

"*AUTHORIZATION OF APPROPRIATIONS*

"*SEC. 374. There is authorized to be appropriated $5,000,000 for fiscal year 1979 and for each succeeding fiscal year ending prior to September 30, 1983, to carry out the provisions of this part.*

"*PART J—BIOMEDICAL SCIENCES*

"*FINDINGS AND PURPOSE*

"*SEC. 381. It is the purpose of this part to—*

"*(1) introduce secondary students from an economically disadvantaged background to the challenges, opportunities, and needs of serving in communities which have a need for professionals trained in the biomedical sciences and which have an underrepresentation of individuals from such a disadvantaged background serving as medical professionals;*

"*(2) motivate and educate these students to successfully pursue careers in the biomedical sciences;*

"*(3) develop academic, cognitive, and communicative skills in these students;*

"*(4) rectify disadvantages resulting from foreign language barriers; and*

"*(5) instill awareness and concern in these students for the health of their families and communities;*

by offering these students an intensive academic program in mathematics, the sciences, and English, study skill development, experiences in laboratory and health care delivery settings, and frequent exposure to individuals trained, or receiving training, in the biomedical sciences.

"*DEFINITIONS*

"*SEC. 382. For the purposes of this part—*

"*(1) The term 'applicant' means an institution which has made application under section 385 for assistance under this part.*

"*(2) The term 'biomedical science' means a field relevant to the study of human biology, and includes chemistry, biology, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, and public health.*

"*(3) The term 'full participant' means with respect to a project conducted in an academic year, a student who has participated satisfactorily in the project for not less than one hundred hours in the academic year.*

"(4) *The term 'project' means a project funded under this part.*

"(5) *The term 'public secondary school system' means secondary schools operated by a local educational agency or a secondary school operated predominantly for Indian children and operated by, or receiving financial assistance from, the Department of the Interior.*

"(6) *The term 'school of biomedical science' means an institution of higher education which provides training leading to a doctorate or master's degree in a biomedical science.*

"(7) *The term 'student from an economically disadvantaged background' means an individual from a family which had, during the preceding year, an income equal to 50 per centum or less of the National median income for families of comparable size and* (*A*) *who is enrolled in good standing in the ninth, tenth, eleventh, or twelfth grade of a secondary school and* (*B*) *whose access to higher educational opportunity in the biomedical sciences is significantly limited due to the income of the individual's family.*

"(8) *The term 'talented student from an economically disadvantaged background' means a student from an economically disadvantaged background who has demonstrated such proficiency or potential as will enable the student, after satisfactory participation in a project, to undertake successfully a course of study in a biomedical science at an institution of higher education. Such proficiency or potential shall be determined in a manner such that* (*A*) *a student from a non-English speaking background is not penalized for the student's lack of proficiency in English, and* (*B*) *due notice is taken of cultural and linguistic biases inherent in traditional testing methods.*

"(9) *The term 'target student' means, with respect to a project offered in an academic year in cooperation with a secondary school system or systems, a talented student from an economically disadvantaged background who is enrolled in the school system or systems in the academic year—*

"(*A*) *in the ninth or tenth grade, or*

"(*B*) *in the eleventh or twelfth grade and who has participated satisfactorily in a project* (*or in a program comparable to a project*) *for not less than one hundred hours during the student's enrollment in the ninth or tenth grade in a school system.*

"*PROJECTS FOR ECONOMICALLY DISADVANTAGED STUDENTS*

"*SEC. 383.* (*a*) *To the extent provided in appropriation Acts the Commissioner is authorized to make grants to and enter into contracts with institutions of higher education for the purpose of offering projects to educate, motivate, and encourage students from an economically disadvantaged background to pursue training at the undergraduate and graduate levels in the biomedical sciences.*

"(*b*) *The Commissioner, in his selection among applications meeting the requirements for approval under section 385, shall* (*1*) *give priority to each such qualified application that proposes the offering of a program not previously offered,* (*2*) *give special consideration* *to each such qualified application that proposes the offering of a project to students enrolled in secondary school located in a health manpower shortage area (designated under section 332 of the Public Health Service Act) or in a rural area, and (3) take into account the location where the project is proposed to be offered to assure that projects are offered in a diversity of geographic settings.*

"(c) The amount of money to be provided, under any grant or contract entered into for a project, for all its expenses (other than special expenses approved by the Commissioner for its summer program offered pursuant to section 384(a)(10)) for a single fiscal year may not exceed an amount equal to $2,400 for each talented student from an economically disadvantaged background who was a full participant in the project in the academic year ending in that fiscal year.

"PROJECT ACTIVITIES

"SEC. 384. (a) Each project funded under this part shall—

"(1) except as provided in subsection (b) extend over a multiyear grant or contract period of at least five academic years;

"(2)(A) be carried out in cooperation with a public secondary school system, or with a combination of such systems, which is located in the area in which the applicant is located and which has a relatively high proportion, as determined by the Commissioner, of students from an economically disadvantaged background enrolled in the secondary schools in such system, and (B) involve in a formal role in policymaking decisions in the project an individual who is employed at an administrative level, no lower than principal or dean, in a secondary school with target students who are participating in the project;

"(3) be conducted, to the extent feasible, in a manner which does not conflict with a student's participation in extracurricular activities of the school in which he is enrolled;

"(4) provide that not less than one hundred talented students from an economically disadvantaged background, who are enrolled in the ninth grade in such public school system or systems in each academic year in which the project is offered, are full participants in the project in such academic year;

"(5) provide for validation of the participation of a target student in such project by a science teacher or the parent or guardian of such student;

"(6) make arrangements to use in such project—

"(A) the research and other facilities and personnel of schools of biomedical science located in the area in which such project is offered;

"(B) the special knowledge of individuals from economically disadvantaged backgrounds who live in the area in which such project is offered and who are employed in the biomedical sciences;

"(C) the expertise of teachers in secondary schools and institutions of higher education located in the area in which such project is offered; and

"(D) the talents and experience of other groups located in the area in which such project is offered, such as parent-teacher associations, foundations, civic groups, and professional organizations, which would further the goals of such project;

"(7) expose target students to professionals trained in the biomedical sciences and to the resources of the biomedical sciences, including those described in paragraph (6), and such other academic and health-related experiences as are designed to—

"(A) inform and educate such students to the challenges, opportunities, and needs of serving in the biomedical science professions;

"(B) educate and motivate such students to pursue successfully careers in the biomedical sciences;

"(C) cultivate the development of academic, cognitive, and communication skills in such students; and

"(D) instill awareness, concern, and information in such students for the health of their families and communities;

"(8)(A) provide counseling to target students who are participating, and to individuals who were such students and who were full participants in an academic year, in the project on the range of opportunities available in the biomedical sciences upon completion of high school, college, and professional training, and on the financial and other prerequisites to pursue such opportunities, and (B) inform parents of participating students of the goals and structure of the project and provide opportunities for the involvement of these parents in the project;

"(9) provide for the offering for target students, by a school of biomedical science during each academic year of such project, of a course or courses which—

"(A) are in one or more of the biomedical sciences,

"(B) encompass at least one hundred hours of classroom, laboratory, and fieldwork experience, and

"(C) use the facilities of such school, including laboratories, libraries, classrooms, audiovisual equipment, conference and meeting rooms, and other necessary facilities;

"(10) provide for the offering—

"(A) in the summer following each academic year of the project, and

"(B) for each individual who was a target student and a full participant in the project in the previous academic year,

of a summer program of at least six weeks' duration and involving such academic study and other activities as promote the purposes of this part; and

"(11) provide for the following (through qualitative assessments by a student's teachers and professors and through documentation of a student's cumulative grade point average in high school, scholastic aptitude test scores, acceptances to colleges and universities, and grade point average and major pursued during attendance at a college or university) of each individual who was a target student and a full participant in the project in an academic year in which the project is offered, to evaluate the impact of the project on the careers pursued by former participants in the project.

"(b) The Commissioner may not provide funds under this part to an institution for a project (other than for the part of the project described in subsection (a)(11)) during an academic year (hereinafter in this subsection referred to as the 'project year') occurring after the second academic year of the project unless—

"(1) the number of target students who were enrolled in the tenth grade and were full participants in the project in the academic year preceding the project year is not less than 50 per centum of the number of target students who were enrolled in the ninth grade and were full participants in the project in the second academic year preceding the project year; and

"(2) not less than 50 per centum of the particular target students who were enrolled in the tenth or eleventh grade and were full participants in the project in the second academic year preceding the project year also were full participants in the project during the academic year preceding the project year.

"APPLICATIONS

"Sec. 385. (a) Any institution desiring assistance under this part shall make application therefor in accordance with the provisions of this part and other applicable law and with regulations of the Commissioner promulgated for the purposes of this part. The Commissioner shall approve an application under this part only if he determines that the project for which the application seeks assistance—

"(1) will be operated by the applicant and that the applicant will carry out such project in accordance with this part; and

"(2) will provide for the activities described in section 384(a).

"(b) In approving an application for assistance under this title, the Commissioner shall insure that there is cooperation and coordination of efforts among the projects, including the exchange of materials and information among such projects.

"USE OF FUNDS

"Sec. 386. (a) Funds appropriated to carry out projects under this part may be used to cover all or part of the cost of establishing and carrying out projects, including the cost of stipends, allowances, travel, and subsistence expenses (in such amounts as may be determined in accordance with regulations of the Commissioner) to target students during their participation in a summer program offered pursuant to section 384(a)(10).

"(b) Each target student who is participating on an essentially full-time basis in a project during the academic year may be paid a stipend in an amount not in excess of $30 per month, except in exceptional cases as determined by the Commissioner.

"APPROPRIATIONS AUTHORIZED

"Sec. 387. (a) For the purpose of carrying out projects under this part, there are authorized to be appropriated $40,000,000 for the fiscal year 1979.

"(b) From the funds appropriated pursuant to subsection (a), an amount not to exceed 5 per centum thereof shall be used for the purpose

of conducting evaluations of the projects authorized under this part.

"(c) Sums appropriated pursuant to this section shall remain available for expenditure and obligation on or before September 30, 1983.".

"PART K—POPULATION EDUCATION

"SHORT TITLE

"SEC. 391. This part may be cited as the 'Population Education Act'.

"PROGRAM AUTHORIZED

"SEC. 392. (a) The Commissioner, in consultation with the Deputy Assistant Secretary for Population Affairs, established by section 3 of the Family Planning Services and Population Research Act of 1970, is authorized, from the sums appropriated for purposes of this part, to carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, research organizations, and other public and private agencies, organizations, and institutions to implement a program of population education in elementary and secondary schools.

"(b) Funds available for grants and contracts under subsection (a) shall be available for such activities as—

"(1) preservice and inservice training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to incorporate population concepts into a broad array of subject fields such as geography, history, science, biology, social studies, and home economics;

"(2) development and dissemination of teacher and student educational training, and instructional materials, including the identification, evaluation, improvement, and adaptation of existing curricula and educational materials;

"(3) research support to develop curriculum content and to evaluate programs and materials for the purpose of widespread dissemination;

"(4) in the case of grants to State and local educational agencies, the support of population education programs at the elementary and secondary educational levels; and

"(5) projects which demonstrate, test, and evaluate the effectiveness of the activities (described in clauses (1) through (4) this subsection) whether or not assisted under this section.

Programs assisted under clauses (2) and (3) shall be carried out in cooperation with State and local educational agencies.

"(c) Applications for grants and contracts under this section shall be submitted at such time, in such form, and contain such information as the Commissioner shall prescribe.

"(d) The National Institute of Education is directed to establish a clearinghouse on population education for the purpose of evaluating, cataloging, and disseminating teacher and student materials on population. Such activities shall be carried out in coordination with related activities carried out under title X of the Public Health Service

Act. For the purposes of carrying out this subsection, the Commissioner is authorized to transfer to the National Institute of Education sums not to exceed $500,000.

"*AUTHORIZATION OF APPROPRIATIONS*

"*SEC. 393. There are authorized to be appropriated such sums as may be necessary for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of this part.*

[TITLE IV—LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION, AND SUPPORT [1]

[PART A—GENERAL PROVISIONS

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 401. (a)(1) Subject to the provisions of paragraph (2), there is authorized to be appropriated the sum of $395,000,000 for obligation by the Commissioner during the fiscal year ending June 30, 1976, and such sums as may be necessary for obligation by the Commissioner during each of the two succeeding fiscal years, for the purpose of making grants under part B (Libraries and Learning Resources) of this title.

[(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

[(A)(i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriate for obligation by the Commissioner during the preceding fiscal year in which part B was in effect, or

[(ii) in the case of appropriations under this subsection for the fiscal year in which part B is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for the fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under title II and so much of title III as relates to testing, guidance, and counseling of this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, and

[(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

[(b)(1) Subject to the provisions of paragraph (2), there is authorized to be appropriated the sum of $350,000,000 for obligation by the Commissioner during the fiscal year ending June 30, 1976, and such sums as may be necessary for obligation by the Commissioner during each of the two succeeding fiscal years, for the purpose of making grants under part C (Educational Innovation and Support) of this title.

[(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

[(A)(i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part C was in effect, or

[(ii) in the case of appropriations under this subsection for the first fiscal year in which part C is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, and

[(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the first year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

[(c)(1) In the first fiscal year in which appropriations are made pursuant to part B, 50 per centum of the funds so appropriated shall be available to the States to carry out part B of this title. The remainder of such funds shall be available to the States and shall be allotted to the States, or to the Commissioner, as the case may be, in such year, pursuant to title II and so much of title III as relates to testing, guidance, and counseling under this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, for each such program in an amount which bears the same ratio to such remainder as the amount appropriated for each such program for the fiscal year ending June 30, 1974, or for the fiscal year preceding the fiscal year for which the determination is made, whichever is higher, bears to the aggregate of such appropriated amounts. The amounts made available under the second sentence of this paragraph shall be subject to the provisions of law governing each such program.

[(2) In the first fiscal year in which appropriations are made pursuant to part C, 50 per centum of the funds so appropriated shall be available to carry out part C of this title. The remainder of such funds shall be available to the States and shall be allotted to the States, or to the Commissioner, as the case may be, in such year, pursuant to title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, for each such program in an amount which bears the same ratio to such remainder as the amount appropriated for each such program for the fiscal year ending June 30, 1974, or for the fiscal year preceding the fiscal year for which the determination is made, whichever is higher, bears to the aggregate of such appropriated amounts. The amount made available under the second sentence of this paragraph shall be subject to the provisions of law governing each such program.

[(d) There are authorized to be appropriated for obligation by the Commissioner during the fiscal year ending September 30, 1978, such sums as may be necessary for the purpose of increasing the allotment under section 402(a)(2) for that year to any State to a level of funding which equals the amounts of funds received by that State for the fiscal year ending June 30, 1974, for programs under title II, title III, title V, and sections 807 and 808 of this Act, and title III (except for section 305) of the National Defense Education Act of 1958.

[ALLOTMENT TO THE STATES

[SEC. 402. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph amounts equal to not more than 1 per centum of each of the amounts appropriated for such year under subsections (a) or (b), or both, of section 401. The Commissioner shall allot each of the amounts appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under part B or part C, or both, of this title. In addition, for each fiscal year he shall allot from each of such amounts to (A) the Secretary of the Interior the amounts necessary for the programs authorized by each such part for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amounts necessary for the programs authorized by each such part for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

[(2) From the amounts appropriated to carry out part B or part C, or both, of this title for any fiscal year pursuant to subsections (a) and (b) of section 401, the Commissioner shall allot to each State from each such amount an amount which bears the same ratio to such amount as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. For the purposes of this subsection, the term "State" shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

[(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out part B or C which the Commissioner determines will not be required for such fiscal year to carry out such part shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year from funds appropriated pursuant to section 401 shall be deemed a part of its allotment under subsection (a) for such year.

[STATE PLANS

[SEC. 403. (a) Any State which desires to receive grants under this title shall establish an advisory council as provided by subsection (b) and shall submit to the Commissioner a State plan, in such detail as the Commissioner deems necessary, which—

[(1) designates the State educational agency as the State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the State plan;

[(2) sets forth a program under which funds paid to the State from its allotments under section 402 will be expended solely for the programs and purposes authorized by parts B and C of this title, and for administration of the State plan;

[(3) provides assurances that the requirements of section 406 (relating to the participation of pupils and teachers in nonpublic elementary and secondary schools) will be met, or certifies that such requirements cannot legally be met in such State,

[(4) provides assurances that (A) funds such agency receives from appropriations made under section 401(a) will be distributed among local educational agencies according to the enrollments in public and nonpublic schools within the school districts of such agencies, except that substantial funds will be provided to (i) local educational agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding payments made under title I of this Act) is no greater than the average per pupil expenditure in the State, and (ii) local educational agencies which have the greatest numbers of percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is not the dominant language; and (B) funds such agency receives from appropriations made under section 401(b) will be distributed among local educational agencies on an equitable basis recognizing the competitive nature of the grantmaking except that the State educational agency shall provide assistance in formulating proposals and in operating programs to local educational agencies which are less able to compete due to small size or lack of local financial resources; and the State plan shall set forth the specific criteria the State educational agency has developed and will apply to meet the requirements of this paragraph.

[(5) provides that each local educational agency will be given complete discretion (subject to the provisions of section 406) in determining how the funds it receives from appropriations made under section 401(a) will be divided among the various programs described in section 421, except that, in the first year in which appropriations are made pursuant to part B, each local educational agency will be given complete discretion with respect to 50 per centum of the funds appropriated for that part attributable to that local educational agency;

[(6) provides for the adoption of effective procedures (A) for an evaluation by the State advisory council, at least annually, of the effectiveness of the program and projects assisted under the State plan, (B) for the appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects, and (C) for the adoption, where appropriate, of promising educational practices developed through innovative programs supported under part C;

[(7) provides that local educational agencies applying for funds under any program under this title shall be required to submit only one application for such funds any one fiscal year;

[(8) provides—

[(A) that, of the funds the State receives under section 401 for the first fiscal year for which such funds are available, such agency will use for administration of the State plan not to exceed whichever is greater (i) 5 per centum of the amount so received ($50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a)(3), or (ii) the amount it received for the fiscal year ending June 30, 1973, for administration of the programs referred to in sections 421(b) and 431(b), and that the remainder of such funds shall be made available to local educational agencies to be used for the purposes of parts B and C, respectively; and that, of the funds the State receives under section 401 for fiscal years thereafter, it will use for administration of the State plan not to exceed whichever is greater (i) 5 per centum of the amount so received ($50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a)(3), or (ii) $225,000, and that the remainder of such funds shall be made available to local educational agencies to be used for purposes of parts B and C, respectively.

[(B) that not less than 15 per centum of the amount received pursuant to section 401(b) in any fiscal year (not including any amount used for purposes of section 431(a)(3)) shall be used for special programs or projects for the education of children with specific learning disabilities and handicapped children, and

[(C) that not more than the greater of (i) 15 per centum of the amount which such State receives pursuant to section 401(b) in any fiscal year, or (ii) the amount available by appropriation of such State in the fiscal year ending June 30, 1973, for purposes covered by section 431(a)(3), shall be used for purposes of section 431(a)(3) (relating to strengthening State and local educational agencies);

[(9) provides assurances that in the case of any project for the repair, remodeling, or construction of facilities, that the facilities shall be accessible to and usable by handicapped persons;

[(10) sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this title for any fiscal year will not be commingled with State funds; and

[(11) gives satisfactory assurance that the aggregate amount to be expended per student or the aggregate expenditure by the State, its local educational agencies, and private schools in such State from funds derived from non-Federal sources for programs described in section 421(a) and section 431(a) for the preceding fiscal year were not less than the amount per student expended or the aggregate expenditure for the second preceding year.

[(b)(1) The State advisory council, established pursuant to subsection (a), shall—

[(A) be appointed by the State educational agency or as otherwise provided by State law and be broadly representative of the cultural and educational resources of the State (as defined in section 432) and of the public, including persons representative of—

[(i) public and private elementary and secondary schools,

[(ii) institutions of higher education, and

[(iii) fields of professional competence in dealing with children needing special education because of physical or mental handicaps, specific learning disabilities, severe educational disadvantage, and limited English-speaking ability or because they are gifted or talented, and of professional competence in guidance and counseling;

[(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, the State plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under this title;

[(C) evaluate all programs and projects assisted under this title; and

[(D) prepare at least annually and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner.

[(2) Not less than ninety days prior to the beginning of any fiscal year for which funds will be available for carrying out this title, each State has certify the establishment of, and membership of (including the name of the person designated as Chairman), its State advisory council to the Commissioner.

[(3) Each State advisory council shall meet within thirty days after certification has been accepted by the Commissioner and establish the time, place, and manner of its future meetings, except that such council shall have not less than one public meeting each year at which the public is given an opportunity to express views concerning the administration and operation of this title.

[(4) Each State advisory council shall be authorized to obtain the services of such professional, technical, and clerical personnel, and to contract for such other services as may be necessary to enable them to carry out their functions under this title, and the Commissioner shall assure that funds sufficient for these purposes are made available to each council from funds available for administration of the State plan.

[(c) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsections (a) and (b) of this section.

[(5) During the fiscal year preceding the first fiscal year for which funds are appropriated pursuant to any part of this title, the State educational agency may use administrative funds available to the State under any program specified in section 401(c) for the purpose of carrying out the requirements of this subsection.

[ADMINISTRATION OF STATE PLANS

[SEC. 404. The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

[PAYMENTS TO STATES

[SEC. 405. From the amounts allotted to each State under section 402 for carrying out the programs authorized by parts B and C, respectively, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan (after withholding any amount necessary pursuant to section 406(f)).

[PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

[SEC. 406. (a) To the extent consistent with the number of children in the school district of a local educational agency (which is a recipient of funds under this title or which serves the area in which a program or project assisted under this title is located) who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral and nonideological services, materials, and equipment including the repair, minor remodeling, or construction of public school facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.

[(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors (pursuant to criteria supplied by the Commissioner) which relate to such expenditures, and when funds available to a local educational agency under this title are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance areas, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

[(c)(1) The control of funds provided under this title and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property.

[(2) The provisions of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.

[(d) If a State is prohibited by law from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

[(e) If the Commissioner determines that a State or a local educational agency has substantially failed to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and [1] shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

[(f) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allotment of the State under this title.

[(g)(1) The Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

[(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

[(3) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[PART B—LIBRARIES AND LEARNING RESOURCES

[PROGRAM AUTHORIZED

[SEC. 421. (a) The Commissioner shall carry out a program for making grants to the States (pursuant to State plans approved under section 403)—

[(1) for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools;

[(2) for the acquisition of instructional equipment (including laboratory and other special equipment, including audio-visual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools, and for minor remodeling of laboratory or other space used by such schools for such equipment; and

[(3) for (A) a program of testing students in the elementary and secondary schools, (B) programs of counseling and guidance services for students at the appropriate levels in elementary and secondary schools designed (i) to advise students of courses of study best suited to their ability, aptitude, and skills, (ii) to advise students with respect to their decisions as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, and (iii) to encourage students to complete their secondary school education, take the necessary courses for admission to postsecondary institutions suitable for their occupational or academic needs, and enter such institutions, and such programs may include short-term sessions for persons engaged in guidance and counseling in elementary and secondary schools, and (C) programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools.

[(b) It is the purpose of this part to combine within a single authorization, subject to the modifications imposed by the provisions and requirements of this title, the programs authorized by title II and so much of title III as relates to testing, counseling, and guidance, of this Act, and title III (except for section 305 thereof) of the National Defense Education Act of 1958, and funds appropriated to carry out this part must be used only for the same purposes and for the funding of the same types of programs authorized under those provisions.

[Part C—Educational Innovation and Support

[PROGRAMS AUTHORIZED

[Sec. 431. (a) The Commissioner shall carry out a program for making grants to the States (pursuant to State plans approved under section 403—

[(1) for supplementary educational centers and services to stimulate and assist in the provision of vitally needed educational services (including preschool education, special education, compensatory education, vocational education, education of gifted and talented children, and dual enrollment programs) not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school programs (including the remodeling, lease, or construction of necessary facilities) to serve as models for regular school programs;

[(2) for the support of demonstration projects by local educational agencies designed to improve nutrition and health services in public and private elementary and secondary schools serving areas with high concentrations of children from low-income families and such projects may include payment of the cost of (A) coordinating nutrition and health service resources in the areas to be served by a project, (B) providing supplemental health, mental health, nutritional, and food services to children from low-income families when the resources for such services available to the applicant from other sources are inadequate to meet the needs of such children, (C) nutrition and health programs designed to train professional and other school personnel to provide nutrition and health services in a manner which meets the needs of children from low-income families for such services, and (D) the evaluation of projects assisted with respect to their effectiveness in improving school nutrition and health services for such children;

[(3) for strengthening the leadership resources of State and local educational agencies, and for assisting those agencies in the establishment and improvement of programs to identify and meet educational needs of States and of local school districts; and

[(4) for making arrangements with local educational agencies for the carrying out by such agencies in schools which (A) are located in urban or rural areas, (B) have a high percentage of children from low-income families, and (C) have a high percentage of such children who do not complete their secondary school education, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children who do not complete their secondary school education.

[(b) It is the purpose of this part to combine within a single authorization, subject to the modifications imposed by the provisions and requirements of this title, the programs authorized by title III (except for programs of testing, counseling, and guidance) and title V, and sections 807 and 808 of this Act, and funds appropriated to carry out this part must be used only for the same purposes and for the funding of the same types of programs authorized under those provisions.

[USE OF CULTURAL AND EDUCATIONAL RESOURCES

[SEC. 432. Programs or projects supported pursuant to this part (other than those described in section 431(a)(3)) shall involve in the planning and carrying out thereof the participation of persons broadly representative of the cultural and educational resources of the area to be served. The term "cultural and educational resources" includes State educational agencies, local educational agencies, private nonprofit elementary and secondary schools, institutions of higher education, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources.]

"TITLE IV—EDUCATIONAL IMPROVEMENT, RESOURCES, AND SUPPORT

"PART A—GENERAL PROVISIONS

"PURPOSE

"SEC. 401. It is the purpose of this title to provide financial assistance to State and local educational agencies—

"(1) to strengthen the quality of elementary and secondary education through support of locally initiated projects and activities designed to improve educational practices;

"(2) to strengthen the ability of State educational agencies to administer educational programs and to assist local educational agencies in improving their educational programs;

"(3) to assist local educational agencies in the acquisition of necessary books, materials, library resources, and instructional equipment;

"(4) to strengthen and expand programs of counseling and guidance services and testing of students in elementary and secondary schools; and

"(5) to assist State and local educational agencies in the planning and development of programs designed to meet the special educational needs of gifted and talented children.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 402. (a)(1) Subject to the provisions of paragraph (2), there is authorized to be appropriated such sums as may be necessary for obligation by the Commissioner during the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under part B, relating to instructional materials and school library resources.

"(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

"(A)(i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part B was in effect, or

"(ii) in the case of appropriations under this subsection for the first fiscal year in which part B is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for the fiscal year 1974, or for the preceding fiscal year, whichever is higher, under title II of this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, and

"(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

"(3) Whenever the requirements of paragraph (2) are not met, the Commissioner shall carry out programs under title II of this Act and under title III (except for section 305) of the National Defense Education Act of 1958 as in effect for the fiscal year 1978 (prior to the repeal or expiration thereof).

"(b)(1) Subject to the provisions of paragraph (2) there is authorized to be appropriated such sums as may be necessary for obligation by the Commissioner during the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under part C, relating to improvements in local educational practices.

"(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

"(A)(i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part C was in effect, or

"(ii) in the case of appropriations under this subsection for the first fiscal year in which part C is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, and

"(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

"(3) Whenever the requirements of paragraph (2) are not met, the Commissioner shall carry out programs under title III (except for programs of testing, guidance, and counseling), title V and sections 807 and 808 of this Act in effect for fiscal year 1978 (prior to the repeal thereof).

"(c)(1)(A) Subject to the provisions of paragraph (2) there is authorized to be appropriated the sum of $50,000,000 for obligation by the Commissioner during the fiscal year 1979, and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under subpart 1 of part D, relating to formula grants for guidance, counseling, and testing.

"(B) There is authorized to be appropriated the sum of $20,000,000 for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of carrying out subpart 2 of part D, relating to discretionary grants for guidance and counseling.

"(2) No funds are authorized to be appropriated for obligation by the Commissioner for any fiscal year unless—

"(A)(i) the aggregate amount which would be appropriated under this subsection for subpart 1 of part D is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which subpart 1 of part D is in effect; or

"(ii) in the case of appropriations under this subsection for the first fiscal year in which subpart 1 of part D is in effect, the amount is at least equal to $18,000,000, and

"(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

"(3) Whenever the requirements of paragraph (2) are not met, the Commissioner shall carry out programs under part A of title V of the National Defense Education Act of 1958 as in effect for fiscal year 1971 (prior to the expiration thereof).

"(d) There is authorized to be appropriated the sums of $50,000,000 for obligation by the Commissioner during the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, for the purpose of making grants under part E, relating to the education of gifted and talented children.

"(e) There are authorized to be appropriated for obligation by the Commissioner during each fiscal year ending prior to October 1, 1983, such sums as may be necessary for the purpose of increasing the allotment under section 403(a)(1) for that year to any State to a level of funding which equals the amounts of funds received by that State for the fiscal year ending June 30, 1974, for programs under title II, title III, title V, and sections 807 and 808 of this Act, and title III (except for section 305) of the National Defense Education Act of 1958.

"(f) No funds are authorized to be appropriated for obligation by the Commissioner for any fiscal year unless the appropriation for part E is equal to at least 5 per centum of the total amounts appropriated under this title.

"*ALLOTMENTS TO STATES*

"SEC. 403. (a)(1) From the amounts appropriated to carry out part B, part C, and subpart 1 of part D of this title for any fiscal year, the Commissioner shall allot to each State from each such amount an

amount which bears the same ratio to that amount as the number of children aged five to seventeen, inclusive, in the State bears to the number of those children in all the States.

"(2) *From the amounts appropriated to carry out part E of this title for any fiscal year pursuant to subsection (d) of section 402, the Commissioner shall reserve 75 per centum of such amounts to be allotted to the States. The Commissioner shall allot to each State from such amount so reserved an amount which bears the same ratio to such amounts so reserved as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States, except that no State shall receive less than $50,000 in any fiscal year.*

"(3) *For the purpose of this subsection, the term 'State' shall not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.*

"(*b*) *The amount of any State's allotment under subsection* (*a*) *for any fiscal year to carry out part B, part C, subpart 1 of part D, or part E which the Commissioner determines will not be required for that fiscal year to carry out any of those parts shall be available for reallotment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the original allotments to those States under subsection* (*a*) *for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Commissioner estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection* (*a*) *for that year.*

"(*c*) *There are authorized to be appropriated for each fiscal year for the purpose of this subsection amounts equal to not more than 1 per centum of each of the amounts appropriated for such year under part B, part C, subpart 1 of part D, and part E of this title. The Commissioner shall allot each of the amounts appropriated pursuant to this subsection among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under part B, part C, subpart 1 of part D, and part E of this title. In addition, for each fiscal year he shall allot from each of such amounts to* (*A*) *the Secretary of the Interior the amounts necessary for the programs authorized by each such part for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and* (*B*) *the Secretary of Defense the amounts necessary for the programs authorized by each such part for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.*

"*STATE PLANS*

"*Sec. 404. (a) A State shall be eligible to receive grants under this part if it has on file with the Commissioner a general State application under section 501 of this Act and if it submits to the Commissioner a State plan at such times (not more often than once every three years) and in such detail as the Commissioner deems necessary, which—*

"*(1) designates the State educational agency as the State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the State plan;*

"*(2) sets forth a program under which funds paid to the State from its allotments under section 403 will be expended solely for the programs and purposes that meet the requirements set forth in part B, part C, subpart 1 of part D, and part E of this title;*

"*(3) provides assurances that the requirements of section 406 (relating to the participation of pupils and teachers in nonpublic elementary and secondary schools) will be met, or certifies that such requirements cannot legally be met in such State;*

"*(4) describes the means by which the State educational agency will provide technical assistance to local educational agencies to enable them fully to participate in programs assisted under this title;*

"*(5) describes the procedures the State will use to distribute funds made available under this title to local educational agencies;*

"*(6) provides that local educational agencies applying for funds under part B and subpart 1 of part D shall be required to submit applications for that program not more often than once every three years;*

"*(7) provides assurances that the aggregate amount to be expended per student or the aggregate expenditure by the State, its local educational agencies, and private schools in such State from funds derived from non-Federal sources for programs described in part B and subpart 1 of part D for the preceding fiscal year are not less than the amount per student expended or the aggregate expenditure for the second preceding fiscal year;*

"*(8) provides that not less than 25 per centum of the amounts which such State receives from its allotment under sections 402 (d) and 403(a)(2) in any fiscal year shall be used to make payments to local educational agencies to be used by local educational agencies for programs and projects which include identification and education of disadvantaged gifted and talented children from low-income families; and*

"*(9) provides with respect to programs and projects authorized by part E of this title—*

"*(A) satisfactory assurance that funds paid to the State from its allotment will be expended solely to plan, establish, and operate programs and projects which—*

"*(i) are designed to identify and to meet the special educational and related needs of gifted and talented children, and*

"*(ii) are of sufficient size, scope, and quality as to hold reasonable promise of making substantial progress toward meeting those needs;*

"(*B*) *that the State educational agency will establish such policies and procedures as are necessary for acquiring and disseminating information derived from educational research, demonstration, and pilot projects, new educational practices and techniques, and the evaluation of the effectiveness of the program or project in achieving its purpose;*

"(*C*) *that the State educational agency will reserve from its allotment under section 402*(*d*) *not to excede 5 pr centum for the purpose of technical assistance and coordination related to programs and projects designed to meet the special needs of gifted and talented children; and*

"(*10*) *provides that funds made available to any local educational agency from the State's allotment for the programs authorized under part E of this title may be used for the acquisition of instructional equipment to the extent such equipment is necessary to enhance the quality or the effectiveness of the program for which the application by such an agency is made; and*

"(*11*) *provides that the State has established a State advisory council in accordance with subsection* (*b*).

"(*b*) (*1*) *The State advisory council shall—*

"(*A*) *be appointed by the State educational agency or as otherwise provided by State law and be broadly representative of the cultural and educational resources of the State and of the public, including—*

"(*i*) *teachers, principals, superintendents, and other professional employees of local educational agenceis and private schools,*

"(*ii*) *teachers from institutions of higher education,*

"(*iii*) *individuals from fields of professional competence in dealing with children needing special education because of physical or mental handicaps, specific learning disabilities, severe educational disadvantage, and limited English language skills or because they are gifted or talented, and of professional competence in guidance and counseling, and*

"(*iv*) *parents, students, and other interested members of the public;*

"(*B*) *advise the State educational agency on the preparation of, and policy matters arising in the administration of, the State plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under this title;*

"(*C*) *evaluate all programs and projects assisted under this title; and*

"(*D*) *prepare at least every three years and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner.*

"(*2*) *Each State advisory council shall be authorized to obtain the services of such professional, technical, and clerical personnel, and to contract for such other services as may be necessary to enable them to carry out their functions under this title, and the Commissioner shall assure that funds sufficient for these purposes are made available* *to each council from funds available for administration of the State plan.*

"(*c*) *The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsections* (*a*) *and* (*b*) *of this section.*

"PAYMENTS TO STATES

"SEC. 405. (*a*) *From the amounts allotted to each State under section 403 for carrying out the programs authorized by part B, part C, and subpart 1 of part D, respectively, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan* (*after withholding any amount necessary pursuant to section 406*(*e*)).

"(*b*)(*1*) *From the amounts allotted to each State under section 403*(*a*)(*2*) *for carrying out programs authorized by part E, the Commisioner shall pay to that State an amount equal to the Federal share of the amount expended by the State in carrying out its State plan* (*after withholding any amount necessary pursuant to section 406*(*e*)).

"(*2*) *The Federal share shall be 90 per centum for fiscal year 1979, 80 per centum for the fiscal year 1980, 70 per centum for the fiscal year 1981, 60 per centum for the fiscal year 1982, and 50 per centum for the fiscal year 1983.*

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

"SEC. 406. (*a*)(*1*) *To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this title or which serves the area in which a program or project assisted under this title is located who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the repair, minor remodeling, or construction of public facilities as may be necessary for their provision* (*consistent with subsection* (*c*) *of this section*), *or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.*

"(*2*) *If no program or project is carried out under part B in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit private agencies or organizations, under which children in private schools in that district are provided with services and materials under that part to the extent that would have occurred if the local educational agency had received funds under this title.*

"(*b*) *Expenditures for programs pursuant to subsection* (*a*) *shall be equal* (*consistent with the number of children to be served*) *to expenditures for programs under this title for children enrolled in the public schools of the local educational agency, taking into account* *the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this title are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance areas, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.*

"*(c)(1) The control of funds provided under this title and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes in this title, and a public agency shall administer such funds and property.*

"*(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.*

"*(d) If a State is prohibited by law from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Commissioner shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.*

"*(e)(1) If the Commissioner determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.*

"*(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of those services.*

"*(f) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).*

"*(g) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this title.*

"*(h)(1) The Commissioner shall not take any final action under this section until the State educational agency and local educational agency affected by such action have had an opportunity, for at least* *forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why that action should not be taken.*

"*(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under paragraph (1) of this subsection, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.*

"*(3) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.*

"*(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.*

"*PART B—INSTRUCTIONAL MATERIALS AND SCHOOL LIBRARY RESOURCES*

"*ACTIVITIES AUTHORIZED*

"*SEC. 421. The amounts allotted to each State under section 403 for the purposes of this part shall be used to provide assistance to local educational agencies within that State—*

> "*(1) for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools;*
>
> "*(2) for the acquisition of instructional equipment and materials suitable for use in providing education in academic subjects for use by children and teachers in elementary and secondary schools.*

"*PROGRAM REQUIREMENTS*

"*SEC. 422. (a) Funds available to a State under this part shall be distributed among local educational agencies in that State according to the enrollments in public and nonpublic schools within the school districts of those agencies, adjusted, in accordance with criteria prescribed by the Commissioner, to provide higher per pupil allocations to (1) local educational agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding payments made under title I of this Act) is no greater than the average per pupil expenditure in the State, and (2) local educational agencies which have the* *greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is not the dominant language.*

"*(b) Local educational agencies shall be given discretion (subject to the provisions of section 406) in determining how funds they receive under this part will be divided among the purposes described in section 421, except that the State educational agency shall insure that each local educational agency, in making that determination, has adopted appropriate procedures, including periodic consultation with teachers, other professional staff in the schools, and private school officials, to coordinate the selection of equipment and materials under this part with curricula being carried out in the schools of that agency.*

"*PART C—IMPROVEMENT IN LOCAL EDUCATIONAL PRACTICES*

"*ACTIVITIES AUTHORIZED*

"*SEC. 431. The amounts allotted to each State under section 403 for the purpose of this part shall be used to provide assistance to local educational agencies within that State for activities that will improve the educational practices of those agencies, including—*

"*(1) the development and demonstration of activities designed to address serious educational problems in elementary and secondary schools, including—*

"*(A) the need for effective programs for children with special needs, such as educationally deprived children, gifted and talented children, and handicapped children,*

"*(B) high rates of children who do not complete secondary school, and*

"*(C) the need of children in private schools for improved educational services;*

"*(2) encouraging the development and demonstration of improved means of carrying out programs for educationally deprived children in school attendance areas having high concentrations of children from low-income families;*

"*(3) activities designed to improve the achievement of children in basic skills;*

"*(4) activities to encourage the participation of parents in the education of their children;*

"*(5) the development of programs to diagnose learning problems and assess the educational achievement of children, including children in nonprofit private schools;*

"*(6) developing and implementing model plans to demonstrate effective means of improving school management and fully coordinating all the Federal, State, and local resources available in a school in a fashion designed to meet the individual needs of every child in that school;*

"*(7) professional development programs for teachers, administrators, and other instructional personnel in the schools of such agencies; and*

"(8) *programs to extend the educational process beyond the school building through the us of other resources in the community, such as museums, businesses, cultural organizations, labor unions, and governmental agencies.*

"*PROGRAM REQUIREMENTS*

"*SEC. 432. (a) Funds available to a State under this part shall be distributed among local educational agencies on an equitable basis, with due regard for the quality of activities proposed in the applications of local educational agencies, except that the State educational agency may provide assistance in formulating proposals and in operating programs to local educational agencies which are less able to compete due to small size or lack of local financial resources. The State plan shall set forth the specific criteria the State educational agency has developed and will apply to meet the requirements of this subsection.*

"*(b) Funds may be made available to a local educational agency under this part for a period of not more than one year to plan for activities to be carried out under this part.*

"*(c) Funds may be provided to a local educational agency under this part for a particular activity for a period of not to exceed five fiscal years (excluding any period for which that agency received a planning grant for that activity), subject to the availability of appropriations for this part for each fiscal year. The amount provided to a local educational agency for any activity under this part shall decline after the third year, in accordance with criteria prescribed by the Commissioner, in order to insure that successful practices developed with assistance under this part will be adopted and supported as part of the regular program.*

"*(d) In fiscal year 1980 not less than 5 per centum, and in each fiscal year thereafter not less than 10 per centum, of the amount made available to each State under this part shall be used to support activities described in section 431 (6), relating to plans for improved school management and the coordinated use in schools of all available resources. No such project shall be approved by the State educational agency unless the proposal therefor has been developed in consultation with, and has been approved by, a committee composed of administrators, teachers, other staff at the school, and parents whose children attend the school.*

"*(e) Not less than 15 per centum of the amount received by a State under this part in any fiscal year shall be used for special programs or projects meeting the purposes of this part for the education of handicapped children. For the purpose of this part, the term 'handicapped children' has the meaning set forth in section 602(1) of the Education of the Handicapped Act.*

"*(f) Subject to section 406 (d) and (e), a State educational agency shall not approve the application of a local educational agency for assistance under this part unless the State educational agency deter-*

mines that in designing the proposal to which that application relates, the needs of children in nonprofit private schools have been taken into account through consultation with private school officials and other means.

"*PROJECTS FOR EDUCATIONALLY DEPRIVED CHILDREN*

"*SEC. 433. (a) From the amount allotted to a State for the purposes of this part for any fiscal year the State may support projects and activities carried out by local educational agencies in the State to develop, demonstrate, and evaluate innovative projects designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families.*

"*(b) Projects and activities carried out by a local educational agency under subsection (a) may include, but are not limited to—*

"*(1) the promotion of greater parental participation in, and contribution to, the learning process of their children;*

"*(2) summer activities designed to sustain educational progress made by children in previous years;*

"*(3) projects to meet the special educational needs of educationally deprived children in secondary schools, including projects to sustain the gains made by children in programs assisted under this title in elementary schools; and*

"*(4) projects in schools with especially high concentrations of children from low-income families to coordinate the utilization of all available resources (including funds made available under other Federal programs) to provide a comprehensive approach to meeting the special educational needs of all children in the school.*

"*(c) Funds available for the purposes of this section shall be distributed to local educational agencies in the State for use in schools and school attenance areas eligible for projects under title I of this Act. Such funds shall be distributed by the State pursuant to the criteria established under section 432(a) as well as additional criteria developed by the State educational agency designed to insure that projects carried out under this section will contribute to the improvement of programs and projects assisted under title I of this Act and under State programs with similar purposes.*

"*(d) Projects and activities carried out by a State under this subsection shall be coordinated with the program administered by the State under title I of this Act.*

"*(e) The State educational agency shall evaluate projects and activities assisted under this section at such times as the Commissioner shall prescribe to determine the extent to which those projects and activities have contributed to improving compensatory education programs in the State, with particular regard to—*

"*(1) sustaining the educational gains accomplished under those programs from year to year, and from elementary to secondary grades, and*

"*(2) the improvement of student achievement in basic skills.*

“Part D—Guidance, Counseling, and Testing

“Subpart 1—Formula Grants

“PROGRAM AUTHORIZED

“Sec. 441. The Commissioner shall carry out a program for making grants to States (pursuant to State plans approved under section 404) for—

“(1) programs of testing students in elementary and secondary schools,

“(2) programs of counseling and guidance services for students at the appropriate levels in elementary and secondary schools designed (A) to advise students of courses of study best suited to their ability, aptitude, and skills, (B) to advise students with respect to their decisions as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, and (C) to encourage students to complete their secondary school education, take the necessary courses for admission to postsecondary institutions suitable for their occupational or academic needs, and enter such institutions, and such programs may include short term sessions for persons engaged in guidance and counseling in elementary and secondary schools,

“(3) programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools, and

“(4) the acquisition of materials for testing programs, particularly materials to diagnose learning problems and to assess achievement in basic skills.

“PROGRAM REQUIREMENTS

“Sec 442. Each local educational agency shall be given complete discretion (subsection to the provisions of section 406) in determining how funds it receives from appropriations made under section 411(c)(1)(A) will be divided among various programs described in this part.

“Subpart 2—Discretionary Grants

“FINDINGS

“Sec. 446. The Congress finds that—

“(1) guidance and counseling activities are an essential component to assure success in achieving the goals of many education programs;

“(2) lack of coordination among guidance and counseling activities supported jointly or separately by Federal programs and by State and local programs has resulted in an underutilization of resources available for such activities; and

“(3) increased and improved preparation of education professionals is needed in guidance and counseling, including administration of guidance and counseling programs at the State and local

levels, with special emphasis on inservice training which takes educational professionals into the workplace of business and industry, the professions, and other occupational pursuits, and that increased and improved use of individuals employed in such pursuits is needed for effective guidance and counseling programs, including (A) bringing persons employed in such pursuits into schools, and (B) bringing students into such workplaces for observation of, and participation in, such pursuits, in order to acquaint the students with the nature of the work.

"*PROGRAM AUTHORIZED*

"*SEC. 447. (a) The Commissioner is authorized, on a competitive basis, to enter into contracts and make grants to State and local educational agencies, to institutions of higher education, and to private nonprofit organizations to assist them in conducting institutes, workshops, and seminars designed to improve the professional guidance and counseling qualifications of teachers and counselors in State and local educational agencies and non-public elementary and secondary school systems, including—*

"*(1) programs providing opportunities for teachers and guidance counselors in such agencies and systems to obtain experience in business and industry, the professions, and other occupational pursuits,*

"*(2) for the purpose of such improvement, programs, services, or activities which bring individuals with experience in such pursuits into schools as counselors or advisors for students, and which bring students into the workplaces of such pursuits to acquaint students with the nature of the work,*

"*(3) programs providing training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and*

"*(4) programs improving supervisory services in the field of guidance and counseling.*

"*(b) The Commissioner is authorized to make grants to States to assist them in carrying out programs to coordinate new and existing programs of guidance and counseling in the States.*

"*ADMINISTRATION*

"*SEC. 448. (a) The Commissioner shall establish or designate an administrative unit within the Education Division for purposes of—*

"*(1) carrying out provisions of this section;*

"*(2) providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and, to the extent practicable, activities of State and local programs of guidance and counseling; and*

"*(3) advising the Commissioner on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.*

"(b) The Commissioner may reserve an amount not to exceed 5 per centum of the sums appropriated for this subpart to carry out the provisions of this section.

"PART E—EDUCATION OF GIFTED AND TALENTED CHILDREN

"PROGRAM AUTHORIZED

"SEC. 451. (a)(1) The Commissioner shall carry out a program from 75 per centum of the amounts appropriated pursuant to section 402(d) (for making grants to the States pursuant to State plans approved under section 404) for the planning, development, operation, and improvement of programs and projects designed to meet the special educational needs of gifted and talented children at the preschool and elementary and secondary school levels.

"(2) Funds available to a State for the program described in paragraph (1) of subsection (a) of this section shall be disturbed among local educational agencies on an equitable basis, with due regard for the quality of activities proposed in the applications of local educational agencies, except that the State education agency may provide assistance in formulating proposals and in operating programs to local educational agencies which are less able to compete due to small size or lack of local financial resources. The State plan set forth the specific criteria the State educational agency has developed and will apply to meet the requirements of this subsection.

"(b) From 25 per centum of the sums appropriated pursuant to section 402(d) the Commissioner is authorized to—

> *"(1) make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to institutions of higher education, a program for training personnel engaged or preparing to engage in educating gifted and talented children or as supervisors of such personnel;*
>
> *"(2) make grants to institutions of higher education and other appropriate non-profit institutions or agencies to provide training to leadership personnel for the education of gifted and talented children and youth; and*
>
> *"(3) enter into contracts with, and make grants to, public and private agencies and organizations, including State and local educational agencies, for the establishment and operation of model projects for the identification and education of gitfed and talented children.*

For the purpose of clause (2) of this subsection, leadership personnel may include, but are not limited to, teacher trainers, school administrators, supervisors, researchers, and State consultants, and grants under such clause may be used for internships, with local, State, or Federal agencies and other public or private agencies or institutions.

(c) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the National Institute of Education shall, in accordance with the terms and conditions of section 405 of such Act carry out a program of research and related activities pertaining to education of gifted and talented children. The Commissioner is authorized to conduct a program of research and related activities

pertaining to the education of gifted and talented children and may transfer all or part of the amounts available for the purposes of subsection (b), to the National Institute of Education for such programs and activities but such sums shall not exceed 5 per centum of the amount available for this part in any fiscal year. As used in the preceding sentence the term "research and related activities" means research, research training, surveys, and demonstrations in the field of education of gifted and talented children and youth, or the dissemination of information dervived from such [illegible], surveys or demonstration, and all such activities, including experimental and model schools.

ADMINISTRATION

Sec. 452. (a) The Commissioner shall designate an administrative units within the Office of Eduction to administer the programs and projects authorized by this part and to coordinate all programs for gifted and talented children and youth administered by the Office of Education.

(b) The Commissioner shall establish or designate a clearinghouse to obtain and disseminate to the public information pertaining to the education of gifted and talented children and youth. The Commissioner is authorized to contract with public or private agencies or organizations to establish and operate the clearinghouse.

DEFINITION

Sec. 453. As used in this Act the term "gifted and talented children" means, in accordance with objective criteria prescribed by the Commissioner, childern who have outsanding intellectual ability or creative talent the development of which requires special activites or services not ordinarily provided by local educational agencies.

[TITLE V—STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES[1]

[Part A—Grants To Strengthen State Departments of Education

[APPROPRIATIONS AUTHORIZED

[Section 501. (a) The Commissioner shall carry out a program for making grants to stimulate and assist States in strengthening the leadership resources of their State educational agencies, and to assist those agencies in the establishment and improvement of programs to identify and meet the educational needs of States.

[(b) For the purpose of making grants under this part, there is hereby authorized to be appropriated the sum of $25,000,000 for the fiscal year ending June 30, 1966, $30,000,000 for the fiscal year ending June 30, 1967, $65,000,000 for the fiscal year ending June 30, 1968, $80,000,000 each for the fiscal years ending June 30, 1969, June 30, 1970, and June 30, 1971 $85,000,000, for the fiscal year ending June 30, 1972, and $90,000,000 for the fiscal year ending June 30, 1973 and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commission during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV.

[SEC. 502. (a)(1) From 95 per centum of the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such 95 per centum of such sums, as he may determine and shall apportion such amount among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder of such per centum of such sums shall be apportioned by the Commissioner as follows:

> [(A) He shall apportion 40 per centum of such remainder among the States in equal amounts.
>
> [(B) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the number of public school pupils in the State bears to the number of public school pupils in all the States, as determined by the Commission on the basis of the most recent satisfactory data available to him.

For purposes of this paragraph, the term "State" does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

[(2) Five per centum of the sums appropriated pursuant to section 501 for each fiscal year shall be reserved by the Commissioner for grants for special projects pursuant to section 505.

[(b)(1) The amount apportioned to any State under paragraph (1) of subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reapportionment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally apportioned among those States under subsection (a)(1) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates that State needs and will be able to use for that year; and the total of these reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amount reapportionated to a State under this subsection from funds appropriated pursuant to section 501 for any fiscal year shall be deemed part of the amount apportioned to it under subsection (a)(1) for that year.

[(2) In accordance with regulations of the Commissioner any State may file with him a request that a specified portion of the amount appropriated to it under subsection (a)(1) be added to the amount apportioned to another State under that subsection for the purpose of meeting a portion of the cost of carrying out one or more programs or activities under an approved application of that other State. If the Commissioner finds that the programs or activities with respect to which the request is made would meet needs of the State making the request and that use of the specified portion of the amount apportioned to that State, as requested by it, would assist in carrying out the purpose of this part, that portion shall be added to the amount apportioned to the other State under subsection (a)(1) to be used for the purpose referred to above.

[GRANTS FROM APPORTIONED FUNDS

[SEC. 503. From the amount apportioned to any State for any fiscal year under section 502 the Commissioner may, upon approval of an application or applications therefor submitted to him by such State through the State educational agency, make a grant or grants to such agency equal to the expenditures incurred by such agency for the planning of, and for programs for, the development, improvement, or expansion of activities promoting the purposes set forth in section 501(a) and more particularly described in such application and for which such application is approved, such as—

[(1) Educational planning on a statewide basis, including the identification of educational problems, issues, and needs in the State and the evaluation on a periodic or continuing basis of education programs in the State;

[(2) Providing support or services for the comprehensive and compatible recording, collecting, processing, analyzing, interpreting, storing, retrieving, and reporting of State and local educational data, including the use of automated data systems;

[(3) Dissemination or support for the dissemination of information relating to the condition, progress, and needs of education in the State;

[(4) Programs for conducting, sponsoring, or cooperating in educational research and demonstration programs and projects such as (A) the development in elementary and secondary schools of programs of occupational information, counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education, (B) establishing and maintaining curriculum research and innovation centers to assist in locating and evaluating curriculum research findings, (C) discovering and testing new educational ideas (including new uses of printed and audio-visual media) and more effective educational practices, and putting into use those which show promise of success, and (D) studying ways to improve the legal and organizational structure for education and the management and administration of education in the State;

[(5) Publication and distribution, or support for the publication and distribution, of curricular materials collected and developed at curriculum research centers and elsewhere;

[(6) Programs to improve the quality of teacher preparation, including student-teaching arrangements, in cooperation with institutions of higher education and local educational agencies;

[(7) Programs and other activities specifically designed to encourage the full and adequate utilization and acceptance of auxiliary personnel (such as teacher aides) in elementary and secondary schools on a permanent basis;

[(8) Studies or support for studies concerning the financing of public education in the State;

[(9) support for statewide programs designed to measure the educational achievement of pupils.

[(10) training and otherwise developing the competency of individuals who serve State or local educational agencies and provide leadership, administrative, or specialist services throughout the State, or throughout the area served by a local educational agency, through the initiation, improvement, and expansion of activities such as (A) sabbatical leave programs, (B) fellowships and traineeships (including educational expenses and the cost of travel) for State educational agency personnel to pursue graduate studies, and (C) conducting institutes, workshops, and conferences (including related costs of operation and payment of the expenses of participants);

[(11) providing local educational agencies and the schools of those agencies with consultative and technical assistance and services relating to academic subjects and to particular aspects of education such as the education of the handicapped, and gifted and talented children, school building design and utilization, school social work, the utilization of modern instructional materials and equipment, transportation, educational administrative procedures, and school health, physical education, and recreation; and

[(12) evaluation and demonstration projects to insure that benefits obtained by children in Head Start and other preschool programs are not lost during their early elementary school years, but are instead enhanced so as to provide continuity in and accelerated development of the child's learning, academic and other social achievements.

[APPROVAL OF APPLICATIONS FOR GRANTS FROM APPORTIONED FUNDS

[SEC. 504. An application for a grant under section 503 may be approved by the Commissioner only upon his determination that—

[(a) each of the proposed projects, programs, and activities for which it is approved meets the requirements of section 503 and will make a significant contribution to strengthening the leadership resources of the applicant or its ability to participate effectively in meeting the educational needs of the State;

[(b) the application contains or is supported by adequate assurance that Federal funds made available under the approved application will be so used as to supplement, and to the extent practical, increase the amounts of State funds that would in the absence of such Federal funds be made available for projects and activities which met the requirements of section 503;

[(c) the application sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including any such funds paid by the State to agencies, institutions, or organizations) under this part, and

[(d) the application provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

[SPECIAL PROJECT GRANTS

[SEC. 505. Five per centum of the sums appropriated pursuant to section 501 for each fiscal year shall be used by the Commissioner to make grants to State educational agencies to pay part of the cost of experimental projects for developing State leadership or for the establishment of special services which, in the judgment of the Commissioner, hold promise of making a substantial contribution to the solution of problems common to the State educational agencies of all or several States, and for grants to public regional interstate commissions or agencies for educational planning and research.

[PART B—LOCAL EDUCATIONAL AGENCIES

[APPROPRIATIONS AUTHORIZED

[SEC. 521. (a) The Commissioner shall carry out a program for making grants to stimulate and assist local educational agencies in strengthening the leadership resources of their districts, and to assist those agencies in the establishment and improvement of programs to identify and meet the educational needs of their districts.

[(b) For the purpose of making grants under this part, there is hereby authorized to be appropriated the sum of $10,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV.

[APPORTIONMENT AMONG STATES

[SEC. 522. (a) From the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such sums, as he may determine and shall apportion such amount among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder of such sums shall be apportioned by the Commissioner as follows:

> [(A) He shall apportion 40 per centum of such remainder among the States in equal amounts.
>
> [(B) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the number of public school pupils in the State bears to the number of public school pupils in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

For purposes of this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

[(B) The amount apportioned to any State under subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reapportionment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally apportioned among those States under subsection (a) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the local educational agencies of such State need and will be able to use for that year: and the total of these reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amount reapportioned to a State under this subsection from funds appropriated pursuant to section 521 for any fiscal year shall be deemed part of the amount apportioned to it under subsection (a) for that year.

[GRANTS FROM APPORTIONED FUNDS

[SEC. 523. From the amount apportioned to any State for any fiscal year under section 522 the Commissioner may, upon approval of an application in accordance with section 524 submitted to him by a local educational agency of such State, after approval by the State educational agency in accordance with section 525, make a grant or grants to such local educational agency equal to the expenditures incurred by such agency for the planning of, and for programs for, the development, improvement, or expansion of activities promoting the purposes set forth in section 521(a) and more particularly described in such application and for which such application is approved, such as—

[(1) educational planning on a district basis, including the identification of educational problems, issues, and needs in the district and the evaluation on a periodic or continuing basis of educational programs in the district;

[(2) providing support or services for the comprehensive and compatible recording, collecting, processing, analyzing interpreting, storing, retrieving, and reporting of educational data including the use of automated data systems;

[(3) programs for conducting, sponsoring, or cooperating in educational research and demonstration programs and projects such as (A) establishing and maintaining curriculum research and innovation centers to assist in locating and evaluating curriculum research findings, (B) discovering and testing new educational ideas (including new uses of printed and audiovisual media) and more effective educational practices, and putting into use those which show promise of success, and (C) studying ways to improve the legal and organizational structure for education, and the management and administration of education in the district of such agency;

[(4) programs to improve the quality of teacher preparation, including student-teaching arrangements, in cooperation with institutions of higher education and State educational agencies;

[(5) programs and other activities specifically designed to encourage the full and adequate utilization and acceptance of auxiliary personnel (such as instructional assistants and teacher aides) in elementary and secondary schools on a permanent basis;

[(6) providing such agencies and the schools of such agencies with consultative and technical assistance and services relating to academic subjects and to particular aspects of education such as the education of the handicapped, the gifted and talented, and the disadvantaged, vocational education, school building design and utilization, school social work, the utilization of modern instructional materials and equipment, transportation, educational administrative procedures, and school health, physical education, and recreation;

[(7) training programs for the officials of such agencies; and

[(8) carrying out any such activities or programs, where appropriate, in cooperation with other local educational agencies.

[APPROVAL OF APPLICATIONS BY THE COMMISSIONER

[SEC. 524. (a) An application for a grant under this part for each fiscal year shall set forth a plan under which Federal funds received by the applicant under this part for that fiscal year will be used solely for a program of activities specifically designed to strengthen the leadership resources of the applicant and to establish and improve programs to identify and meet the educational needs of the persons served by the applicant.

[(b) The Commissioner may approve an application under this part only if the application for that year—

[(1) contains or is supported by adequate assurance that Federal funds made available under the approved application will be so used as to supplement, and to the extent practical, increase the amounts of State and local funds that would in the absence of such Federal funds be made available for projects and activities which meet the requirements of section 523;

[(2) sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part; and

[(3) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

[APPROVAL OF APPLICATIONS BY STATE EDUCATIONAL AGENCIES

[SEC. 525. In approving applications for the purposes of this part a State educational agency shall—

[(1) approve only such applications for proposed projects, programs, or activities as will—

[(A) make a significant contribution to strengthening the leadership resources of the applicant or its ability to participate effectively in meeting the educational needs of its district, and

[(B) involve an expenditure of at least $2,500, and

[(2) provide for an equitable distribution on the basis of need of funds provided pursuant to this part, and, to the extent possible within such a distribution, give priority to exemplary projects, programs, or activities.

[PART C—COMPREHENSIVE EDUCATIONAL PLANNING AND EVALUATION

[AUTHORIZATION

[SEC. 531. (a) The Commissioner is authorized to make comprehensive planning and evaluation grants to State and local educational agencies in order to assist and stimulate them to enhance their capability to make effective progress, through comprehensive and continuing planning and evaluation, toward the achievement of opportunities for high-quality education for all segments of the population.

[(b) For the purpose of carrying out the provisions of this part, there are hereby authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.

[(c)(1)(A) From the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such per centum, as he may determine and shall apportion such amount among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder shall be apportioned by the Commissioner as follows:

[(i) He shall apportion 40 per centum of such remainder among the States in equal amounts.

[(ii) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the population of the State bears to the population of all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

[(B) For purposes of this paragraph (1), the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

[(2) The amount apportioned to any State under paragraph (1) of this subsection for any fiscal year which the Commissioner determines will not be required for that year shall be available for reapportionment from time ot time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally apportioned among those States under such paragraph for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the State and local educational agencies of such State need and will be able to use for that year; and the total of these reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amount reapportioned to a State under this paragraph from funds appropriated pursuant to this section for any fiscal year shall be deemed part of the amount apportioned to it under paragraph (1) for that year.

[(3) Grants for any fiscal year to a State agency and any local educational agency in such State pursuant to this part shall be made from such State's apportionment for such year pursuant to this subsection.

[COMPREHENSIVE PLANNING AND EVALUATION GRANTS: ELIGIBLE AGENCIES

[SEC. 532. (a) Any State desiring to receive a grant under this part for any fiscal year shall designate or establish within its State educational agency a single office or unit (hereinafter in this part referred to as the State planning and evaluation agency) as the sole agency for administering a comprehensive program of systematic planning and evaluation of elementary and secondary education in the State. The State planning and evaluation agency shall have the primary responsibility for planning and evaluating the education programs of the State and for the administration of funds received by the State under this part.

[(b) Any local educational agency desiring to receive a grant under this part must provide the Commissioner with satisfactory assurance that—

[(1) the local educational agency or agencies have a planning and evaluation office or unit which has or will have, as the result of assistance under this part, the capability of carrying out a comprehensive program of systematic planning and evaluation meeting the purposes of this part;

[(2) the appropriate State educational agency or agencies have been consulted and have had the opportunity to comment on, and advise the local educational agencies and the Commissioner with regard to, the application; and

[(3) the planning and evaluation activities of the local educational agency or agencies will be closely coordinated with such activities of the appropriate State agencies;

and must further provide the Commissioner with satisfactory assurance that—

[(4) the local educational agency serves, or, if two or more local educational agencies are making joint application, those agencies serve, an area with a population sufficient to merit a comprehensive planning and evaluation program in addition to that of the State or of other local educational agencies in the area or region to be served by the applicant; or

[(5) the local educational agency or agencies will use the funds for demonstration projects to plan, develop, test, and improve planning and evaluation systems, and techniques consistent with, and to further the purposes of, this part.

[(c) In making grants pursuant to this section the Commissioner shall give special emphasis on developing coordinated and comprehensive plans for educational planning and evaluation between and among the Office of Education, State educational agencies, and local educational agencies, including projects on an interstate, regional, or metropolitan area basis.

[(d) No grant shall be made by the Commissioner to a local educational agency or agencies under this part unless the application for such grant has been submitted to the State educational agency or agencies in the State or States in which it is to be carried out. If within sixty days of such submission or within such longer period of time as the Commissioner may determine pursuant to regulations, the State agency or agencies disapprove the proposed program or project, the Commissioner shall review the application with the appropriate State and local educational agencies before making a final decision.

[APPLICATION

[SEC. 533. (a) An application for a grant under this part shall be submitted to the Commissioner at such time or times, in such form, and containing such information as he may deem necessary. Such application shall include—

[(1) a statement of present and projected educational needs of persons residing in the area to be served;

[(2) a description of a program for meeting those needs which includes—

[(A) setting long-range areawide goals in meeting educational needs and establishing priorities among such goals,

[(B) developing long-range plans for achieving such goals, taking into consideration the resources available and the educational effectiveness of each of the alternatives,

[(C) planning new programs and improvements in existing programs based on the results of analyses of alternative means of achieving educational goals,

[(D) objectively evaluatiing at intermedinate stages the progress and effectiveness of programs in achieving such goals, and, when appropriate, adjusting goals, plans, and programs to maximize educational effectiveness, and

[(E) utilizing available management information, planning, and evaluation systems and techniques;

[(3) a plan for developing and strengthening the capabilities of the applicant to improve its planning capacity and to conduct, on a continuous basis, objective evaluations of the effectiveness of education programs and projects;

[(4) a plan for utilizing the resources of, and coordinating with, programs affecting education of other Federal, State, and local agencies, organizations, and persons; and

[(5) a statement of policies and procedures which have been, or will be, established and implemented for developing and maintaining a permanent system for obtaining and collecting significant information necessary for the assessment of education in the area to be served by the applicant, for consulting with and involving parents of children served by the applicant, and for making full and detailed information concerning the educational planning and evaluation activities and findings of the applicant and other agencies and persons receiving assistance under this part reasonably available to the public.

[(b)3 Applications for grants under this section may be approved by the Commissioner only if he determines that the application—

[(1) has been submitted only after interested parents have been given reasonable notice and an opportunity to express their views thereon;

[(2) sets forth, in such detail as the Commissioner may determine necessary, such policies and procedures as will provide satisfactory assurance that—

[(A) the assistance provided under this section, together with other available resources, will be so used for the purposes of this part as to result in the maximum possible effective progress toward the achievement of a high level of planning and evaluation competence, and

[(B) assistance under this part will be used primarily in strengthening the capabilities of the planning and evaluation staff of the agency, office, or unit responsible for the administration of the application plan; and

[(3) sets forth such policies and procedures as will insure that Federal funds made available under the application will be so used as to supplement, and to the extent practical, increase the amounts of State or local funds that would, in the absence of Federal funds, be made available for activities meeting the purposes of this title;

[(4) in the case of applications from States, makes adequate provision (consistent with such criteria as the Commissioner shall prescribe by regulation) for using funds granted under this section to make program planning and evaluation services available to local educational agencies in the State.

[(c) A grant made pursuant to an application under this section may be used to pay not to exceed 75 per centum of the cost of the activities covered by the application.

[REPORTS

[SEC. 534. Each recipient of a grant shall make an annual report on the activities carried out with the funds from such grant which includes such information as the Commissioner determines will permit an evaluation of the effectiveness of the program authorized by this part in achieving its purposes. Each such recipient shall also make such other reports, in such form and containing such information as the Commissioner may require to carry out his functions under this part.

[PART D—COUNCILS ON QUALITY IN EDUCATION

[NATIONAL AND STATE ADVISORY COUNCILS

[SEC. 541. (a)(1) There is hereby established a National Council on Quality in Education (hereafter referred to as the "National Council") composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The membership of the National Council shall include persons who are familiar with the educational needs and goals of the Nation, persons with competence in assessing the progress of the education agencies, institutions, and organizations in meeting those needs and achieving those goals, persons familiar with the administration of State and local educational agencies and of institutions of higher education, and persons representative of the general public. Members shall be appointed for terms of three years, except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only.

[(2) The National Council shall—

[(A) review the administration of, general regulations for, and operation of the programs assisted under this title at the Federal, State, and local levels, and other Federal education programs;

[(B) advise the Commissioner and, when appropriate, the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of the educational agencies, institutions, and organizations of the Nation toward meeting those needs and achieving those goals;

[(C) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

[(D) review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to clause (E) of paragraph (3) of subsection (b) of this section;

[(E) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of education programs including the programs authorized by this title;

[(F) consult with Federal, State, local, and other educational agencies, institutions, and organizations with respect to assessing education in the Nation and the improvement of the quality of education, including—

[(i) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

[(ii) determinations of priorities among unmet needs and national goals; and

[(iii) specific means of improving the quality and effectiveness of teaching, curricula, and educational media and of raising standards of scholarship and levels of achievement;

[(G) conduct national conferences on the assessment and improvement of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education; and

[(H) conduct, and report on, comparative studies and evaluations of education systems in foreign countries.

[(3) The National Council shall make an annual report, and such other reports as it deems appropriate, on its findings, recommendations, and activities to the Congress and the President. The President is requested to transmit to the Congress, at least annually, such comments and recommendations as he may have with respect to such reports and its activities.

[(4) In carrying out its responsibilities under this section, the National Council shall consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Supplementary Centers and Services, the National Advisory Council on Education Professions Development, and such other advisory councils and committees as may have information and competence to assist the National Council. All Federal agencies are directed to cooperate with the National Council in assisting it in carrying out its functions.

[(b)(1) Any State receiving payments under this title for any fiscal year may establish a State advisory council (hereinafter referred to as "State council") which if it meets the requirements and has the authority specified in this subsection may receive payments pursuant to paragraph (7). The State council shall be appointed by the Governor or, in the case of States in which the members of the State educational agency are elected (including election by the State legislature), by such agency.

[(2) The State council established pursuant to this subsection shall be broadly representative of the educational resources of the State and of the public. Representation on the State council shall include, but not be limited to, persons representative of—

[(A) public and nonprofit private elementary and secondary schools;

[(B) institutions of higher education;

[(C) areas of competence in planning and evaluating education programs, and the assessment of the effectiveness of, and the administration of, such programs at the State and local levels; and

[(D) areas of competence in dealing with children for whom special educational assistance is available under this Act.

[(3) The State council shall—

[(A) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and the National Council at such times, in such form, and in such detail, as the Commissioner may prescribe;

[(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, State and local educational programs in the State, including the development of criteria for approval of applications for assistance under this title;

[(C) advise State and local officials who have a responsibility for education in the State with respect to the planning, evaluating, administration, and assessment of education in the State;

[(D) review and make recommendations to the State educational agency on the action to be taken with respect to applications for assistance under this title by local educational agencies; and

[(E) evaluate programs and projects assisted under this title.

[(4) Any such State shall certify the establishment of, and membership of its State council to, the Commissioner.

[(5) Such State council shall meet within thirty days after its certification has been accepted by the Commissioner and select from among its membership a chairman. The time, place, and manner of meeting shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given opportunity to express views concerning the operation of programs and projects assisted under this title.

[(6) Such State council shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this title and to contract for such services as may be necessary to enable them to carry out their evaluation functions.

[(7) There are hereby authorized to be appropriated for each fiscal year such sums, not in excess of 2½ per centum of the amount otherwise appropriated for such year for the purposes of this title, as may be necessary to carry out the provisions of this subsection.

[PART E—GENERAL PROVISIONS

[ADMINISTRATION OF PLANS

[SEC. 551. (a) The Commission shall not finally disapprove any application from a State or a local educational agency, submitted under part A or B of this title, or any modification thereof, without affording the applicant reasonable notice and an opportunity for a hearing.

[(b) Whenever the Commissioner, after reasonable notice and an opportunity for a hearing to a State or a local educational agency administering a program under an application approved under this title, finds that there has been a failure to comply substantially with the appropriate provisions of this title or with the provisions of an application approved under this title, he shall notify the State or the local educational agency, as the case may be, that further payments will not be made to that State or that local educational agency under that application until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to that State or that local educational agency under the application. Whenever a local educational agency is given notice under the first sentence of this subsection, notice shall also be submitted to the appropriate State educational agency.

[JUDICIAL REVIEW

[SEC. 552. (a) If any State or any local educational agency is dissatisfied with the Commissioner's final action with respect to the approval of an application submitted under part A or B of this title or with his final action under section 551(b), such State or local educational agency may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State or local educational agency is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

[(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.]

TITLE V—STATE LEADERSHIP

PART A—ADMINISTRATION OF EDUCATION PROGRAMS AND DUTIES OF THE STATE EDUCATIONAL AGENCY

SINGLE STATE APPLICATION

SEC. 501. (a) Each State which desires to participate in programs authorized under this Act shall submit to the Commissioner a general application containing the assurances set forth in subsection (b). That application may be submitted jointly for all programs covered by the application, or it may be submitted separately for each such program or for groups of programs. Each application submitted under this section must be approved by each official, agency, board, or other entity within the State which, under State law, is primarily responsible for supervision of the activities conducted under each program covered by the application.

(b) An application submitted under subsection (a) shall set forth assurances, satisfactory to the Commissioner—

(1) that each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or organization if the statute authorizing the program provides for grants to those entities, and that the public agency or nonprofit private agency, institution, or organization will administer those funds and property;

(3) that the State will adopt and use proper methods of administering each program to which this part applies including—

(A) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law,

(B) providing technical assistance, where necessary, to those agencies, institutions, and organizations,

(C) encouraging the adoption by those agencies, institutions, and organizations of promising or innovative educational techniques,

(D) the dissemination throughout the State of information on program requirements and successful practices, and

(E) the correction of deficiencies in program operations that are identified through monitoring or evaluation;

(4) that the State will evaluate the effectiveness, of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Commissioner may prescribe by regulation, and that the State will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other Federal official;

(5) that the State will use such fiscal control and fund accounting procedures as will insure proper disbursement of, and accounting for, Federal funds paid to the State under each program;

(6) that the State will make reports to the Commissioner (including reports on the results of evaluations required under paragraph (4)) as may reasonably be necessary to enable the Commissioner to perform his duties under each program, and that the State will maintain such records, in acordance with the requirements of section 434(a) of the General Education Provisions Act, and afford access to the records as the Commissioner may find necessary to carry out his duties;

(7) that the amount of funds from State and local sources made available in the State for current expenditures for free public elementary and secondary education, in the fiscal year preceding the fiscal year for which assistance is received under each program was not less than the amount made available in the State from State and local sources in the second preceding fiscal year; and

(8) that the State will provide reasonable opportunities for the participation by local educational agencies, individuals affected by each program, and other interested institutions, organizations, and individuals to participate in the planning for and operation of each program, including the following:

(A) The State shall consult with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of programs plans required by statute.

(B) The State shall publish each proposed plan, in a manner that will insure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Commissioner or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on that plan to be accepted for at least thirty days.

(C) The State shall hold public hearings on the proposed plans if required by the Commissioner by regulation.

(D) The State shal provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations.

(c) Each general application submitted under this section shall remain in effect for the duration of any program subject to the application. The Commissioner shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in that application.

SINGLE LOCAL EDUCATIONAL AGENCY APPLICATION

SEC. 502. (a) Each local educational agency which participates in an applicable program under which Federal funds are made available to that agency through a State agency or board shall submit to that agency or board a general application containing the assurances set forth in subsection (b). That application shall cover the participation by the local educational agency in all such programs.

(b) The general application submitted by a local educational agency under subsection (a) shall set forth assurances—

(1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, progam plans, and applications;

(2) that the control of funds provided to the local educational agency under each program and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

(3) that the local educational agency will use fiscal control and fund accounting procedures that will insure proper disbursement of, and accounting for Federal funds paid to that agency under each program;

(4) that the local educational agency will make reports to the State agency or board and to the Commissioner as may reasonably be necessary to enable the State agency or board and the Commissioner to perform their duties and that the local eduucational agency will maintain such records, including the records required under section 434(a) of the General Education Provisions Act, and give access to those records, as the State agency or board or the Commissioner deem necessary to perfom their duties;

(5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;

(6) that any application, evaluation, periodic progam plan or report relating to each program will be made readily available to parents and other members of the general public;

(7) that in the case of any project involving construction—

(A) the project is not inconsistent with overall State plans for the construction of school facilities,

(B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 504 of the Rehabilitation Act of 1973 in order to insure that facilities constructed with the use of Federal funds are accessible to and usable by handicapped individuals,

(C) in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and inclusion of works of art (not repesenting more than 1 per centum of the cost of the project), and

(8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through those projects.

(c) A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in that application.

APPLICATION APPROVAL

Sec. 503. (a) (1) A State educational agency shall approve an application of a local educational agency or a State agency under title I if (A) such State educational agency is satisfied, after considering the factors specified in paragraph (2), that such applicant agency will use the funds received under the application in a manner which meets the requirements of this title, the General Education Provisions Act and other applicable requirements and (B) such applicant agency is not out of compliance with a determination of the State educational agency or the Commissioner that it repay funds paid it under this title which were misused, and is not out of compliance with a compliance agreement under section 508(c).

(2) A State educational agency may approve an application under subsection (a), only after it has considered, where pertinent, (A) the results of Federal and State audits, (B) the results of Federal and State monitoring reports, (C) administrative complaints made by parents or other individuals concerning the applicant agency's compliance with this title, and (4) evaluations conducted under section 501 (b)(4).

(b) A State educational agency may make payments from funds received under this part only for programs and projects which it has approved under subsection (a).

(c) A State educational agency shall not finally disapprove in whole or in part any application for funds under this part without first affording the local educational agency or other applicant submitting the application reasonable notice and opportunity for a hearing in accordance with section 434 of the General Education Provisions Act.

STATE RULEMAKING

Sec. 504. Nothing in this part shall be deemed to prohibit a State educational agency from adopting rules, regulations, procedures, guidelines, criteria, or other requirements applicable to programs and projects, assisted under this part if they do not conflict with the provisions of this part or with regulations promulgated by the Commissioner implementing this title or other applicable Federal law. The Commissioner shall encourage State educational agencies, in adopting such rules, regulations, procedures, guidelines, criteria, or other requirements to recognize the special and unique needs and circumstances of the State and of each local educational agency in the State.

TECHNICAL ASSISTANCE AND DISSEMINATION OF INFORMATION

Sec. 505. Each State educational agency shall carry on a comprehensive program to provide technical assistance to local educational agencies and State agencies with respect to the use of funds received under this part. Such a program shall include technical assistance for management procedures, for planning, development, implementation, and evaluation of programs, and for preparation of applications, as well as other forms of technical assistance needed by local educational agencies and State agencies. Each State educational agency shall also adopt effective procedures for disseminating to local educational agencies and State agencies (1) significant and relevant information derived from education research, (2) information about successful com-

pensatory education projects, and (3) such other information as will assist local educational agencies and State agencies in planning, developing, implementing, and evaluating programs subject to this part.

MONITORING

Sec. 506. Each State educational agency shall adopt standards, consistent with minimum standards established by the Commissioner, for monitoring the effectiveness of programs and projects subject to this part. Such standards shall (1) describe the purpose and scope of monitoring; (2) specify the frequency of on-site visits; (3) describe the procedures for issuing and responding to monitoring reports, including but not limited to, the period of time in which the State educational agency must issue its report, the period of time in which the applicant agency must respond, and the appropriate follow-up by the State educational agency, (4) specify the methods for making monitoring reports available to parents, State and local auditors, and other persons, and (5) specify the methods for insuring that noncompliant practices are corrected.

COMPLAINT RESOLUTION

Sec. 507. Each State educational agency shall adopt written procedures for receiving and resolving complaints, or reviewing appeals from decisions of local educational agencies with respect to complaints, concerning violations of this title or applicable provisions of the General Education Provisions Act in connection with programs subject to this part, and for conducting such on-site investigations of such complaints which the State educational agency deems necessary. Such procedure shall include—

(1) specific time limits for resolving the complaint or completing the review and, if necessary, the independent on-site investigation, which shall not exceed sixty days unless exceptional circumstances exist;

(2) an opportunity for the complainant or the complainant's representative, or both, and the local educational agency involved to present evidence, including the opportunity to question parties to the dispute and any of their witnesses;

(3) the right to appeal the final resolution of the State educational agency to the Commissioner within thirty days after receipt of the written decision; and

(4) dissemination of information concerning the procedures to interested parties, including all district and school advisory councils.

WITHHOLDING OF PAYMENTS

Sec. 508. (a) Whenever a State educational agency, after reasonable notice and opportunity for a hearing to any local educational agency or State agency, finds that there has been a failure to comply substantially with any provision of the programs subject to this part the State educational agency shall notify such agency that further payments will not be made to it under applicable provisions of law until it is satisfied that there is no longer any such failure to comply. Until it is so satisfied, no further payments shall be made to such agency under *applicable provisions of law, except as may be provided in a compliance agreement entered into under subsection (c). Pending the outcome of any proceeding under this subsection, the State educational agency may suspend payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why action should not be taken.*

(b) Upon receipt by a local educational agency or a State agency of a notice that the State educational agency pursuant to subsection (a) is withholding payment the State educational agency shall inform the district advisory council and shall take such additional action as may be necessary to bring the State action to the attention of the public.

(c) A State educational agency may suspend the initiation or continuation of its withholding action under subsection (a) while there is in effect a compliance agreement with the local educational agency or State agency under this subsection, except that if the local educational agency or State agency fails to comply with the terms agreed to, such agreement shall no longer be in effect and subsection (a) shall be fully operative. In implementing such subsection, the State educational agency shall take into account any partial compliance by such agency under such agreement.

(d) A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act, appeal a final determination of the State educational agency under subsection (a) to the Commissioner.

AUDITS AND AUDIT RESOLUTION

SEC. 509. (a) Each State shall make provision for audits of the expenditure of funds received under programs subject to this part, including funds received under this part, to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant. Such audits shall be made with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity.

(b) Each State educational agency shall have in effect written procedures, meeting minimum standards established by the Commissioner, to assure timely and appropriate resolution of audit findings and recommendations arising out of audits provided for in subsection (a). Such procedures shall include a description of the audit resolution process, timetables for each step of the process, and in audit appeals process. Where, under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, such repayment may be made only from funds derived from non-Federal sources. Such repayments may be made in either a single payment or in installments over a period not to exceed three years.

(c) A local educational agency or State agency shall repay from non-Federal sources that amount of funds under any program to which this part applies which have been finally determined through the audit resolution process to have been misspent or misapplied.

(d) A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act, appeal a final determination of the State educational agency under subsection (b) to the Commissioner.

(e) If, following an affirmance by the Commissioner of a final determination of a State educational agency under subsection (b) or failure by a local educational agency or State agency to seek timely review by the Commissioner, such local educational agency or State agency refuses to repay from non-Federal sources funds which have been misspent or misapplied any program to which this part applies, the State educational agency shall promptly notify the Commissioner and the Commissioner shall promptly initiate collection action.

PAYMENTS; AUTHORIZATION

SEC. 510. (a) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this part, except that the total of such payments in any fiscal year shall not exceed—

(1) 1.75 per centum of the amount allocated to the State and its local educational agencies as determined for that year under the programs described in section 501(a); or

(2) $550,000 or $87,500 in the case of Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or the Northern Marianas,

whichever is the greater, but such payments shall not be less than the amount each State received for administration of programs under this Act for fiscal year 1978.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983.

(c) The Commissioner is authorized to pay to each State in addition to the amount authorized under the preceding subsection an amount not to exceed 25 per centum of the amount authorized for that State under the preceding subsection in cases where—

(1) such funds are used solely for purposes of monitoring, audit resolution, enforcement, or other similar activities which are directly and exclusively related to the enforcement of the requirements of titles I and IV of this Act and of this part,

(2) the State applies to receive such individual funds and, in the annual application submitted under section 142 of this Act specifically describes the intended uses of such funds, and

(3) such funds are used to supplement, and not supplant, funds from non-Federal sources for such enforcement purposes.

PART B—STRENGTHENING STATE EDUCATIONAL AGENCY MANAGEMENT

ACTIVITIES AUTHORIZED

SEC. 521. The amounts available to each State for the purposes of this part shall be used by the State educational agency of that State to strengthen the educational leadership resources of that agency and *to assist that agency in identifying and meeting the critical educational needs of the State. Such activities may include—*

(1) developing more equitable means of financing education in the State;

(2) providing resources to other branches of the State government to conduct analyses of educational issues facing the State;

(3) developing statewide programs to assess the educational progress of students in the State in both public and private schools, including testing programs and other methods of assessing student achievement in reading, writing, and mathematics;

(4) providing technical assistance to local educational agencies for improving planning, management of State and Federal programs, citizen involvement, and staff development;

(5) providing technical assistance to local educational agencies for improving their instructional programs, including programs that enable parents to assist in the instruction of their children at home;

(6) workshops, conferences, and other means of providing communication among educators and between educators and the public;

(7) dissemination of information concerning effective educational practices;

(8) coordinating public educational programs with those carried out in private nonprofit elementary and secondary schools in the State, and monitoring the requirements of Federal programs with respect to the participation therein of children enrolled in those schools;

(9) professional development of employees of the State educational agency; and

(10) developing curricular materials and programs.

PROGRAM REQUIREMENTS

SEC. 522. Each State which desires to participate in programs under this part shall submit to the Commissioner a State plan which sets forth in such detail as the Commissioner prescribes the purposes for which funds provided under this part will be used by the State educational agency. That plan shall also set forth—

(1) the means by which the State will make information and technical assistance available to private nonprofit school officials who desire to arrange for children in those schools to participate in Federal elementary and secondary education programs, and

(2) a comprehensive plan for the coordination of Federal and State funds for training activities for educational personnel in the State including preservice and inservice training, which plan shall be developed with the involvement of teachers, professional associations, institutions of higher education, and other interested individuals and organizations.

AUTHORIZATION OF APPROPRIATIONS

SEC. 523. There are authorized to be appropriated for the purposes of this part such sums as may be necessary for fiscal year 1980 and for each of the succeeding fiscal years ending prior to October 1, 1983.

PART C—COUNCILS ON QUALITY IN EDUCATION

NATIONAL AND STATE ADVISORY COUNCILS

SEC. 531. (a)(1) There is hereby established a National Council on Quality in Education (hereafter referred to as the "National Council") composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The membership of the National Council shall include persons who are familiar with the educational needs and goals of the Nation, persons with competence in assessing the progress of the education agencies, institutions, and organizations in meeting those needs and achieving those goals, persons familiar with the administration of State and local educational agencies and of institutions of higher education, and persons representative of the general public. Members shall be appointed for terms of three years, except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only.

(2) The National Council shall—

(A) review the administration of, general regulations for, and operation of the programs assisted under this title at the Federal, State, and local levels, and other Federal education programs;

(B) advise the Commissioner and, when appropriate, the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of the educational agencies, institutions, and organizations of the Nation toward meeting those needs and achiving those goals;

(C) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

(D) review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to clause (E) of paragraph (3) of subsection (b) of this section;

(E) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of education programs including the programs authorized by this title;

(F) consult with Federal, State, local, and other educational agencies, institutions, and organizations with respect to assessing education in the Nation and the improvement of the quality of education, including—

(i) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

(ii) determinations of priorities among unmet needs and national goals;

(iii) specific means of improving the quality and effectiveness of teaching, curricula, and educational media and of raising standards of scholarship and levels of achievement; and

(G) conduct national conferences on the assessment and improvement of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education; and

(H) conduct, and report on, comparative studies and evaluations of education systems in foreign countries.

(3) The National Council shall make an annual report, and such other reports as it deems appropriate, on its findings, recommendations, and activities to the Congress and the President. The President is requested to transmit to the Congress, at least annually, such comments and recommendations as he may have with respect to such reports and its activities.

(4) In carrying out its responsibilities under this section, the National Council shall consult with the National Advisory Council on the Education of Disadvantaged Children, and such other advisory councils and committees as may have information and competence to assist the National Council. All Federal agencies are directed to cooperate with the National Council in assisting it in carrying out its functions.

(b)(1) Any State receiving payments under this title for any fiscal year may establish a State advisory council (hereinafter referred to as "State council") which if it meets the requirements and has the authority specified in this subsection may receive payments pursuant to paragraph (7). The State council shall be appointed by the Governor or, in the case of States in which the members of the State educational agency are elected (including election by the State legislature), by such agency.

(2) The State council established pursuant to this subsection shall be broadly representative of the educational resources of the State and of the public. Representation on the State council shall include, but not be limited to, persons representative of—

(A) public and nonprofit private elementary and secondary schools;

(B) institutions of higher education;

(C) areas of competence in planning and evaluating education programs, and the asessment of the effectiveness of, and the administration of, such programs at the State and local levels; and

(D) areas of competence dealing with children for whom special educational assistance is available under this Act.

(3) The State council shall—

(A) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and the National Council at such times, in such form, and in such detail, as the Commissioner may prescribe;

(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, State and local educational programs in the State, including the development of

criteria for approval of applications for assistance under this title;

(C) advise State and local officials who have a responsibility for education in the State with respect to the planning, evaluating, administration, and assesment of education in the State;

(D) review and make recommendations to the State educational agency on the action to be taken with respect to applications for assistance under this title by local educational agencies; and;

(E) evaluate programs and projects assisted under this title.

(4) Any such State shall certify the establishment of, and membership of its State council to, the Commissioner,

(5) Such State council shall meet within thirty days after its certification has been accepted by the Commissioner and select from among its membership a chairman. The time, place, and manner of meeting shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given opportunity to express views concerning the operation of programs and projects assisted under this title.

(6) Such State council shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this title and to contract for such services as may be necessary to enable them to carry out their evaluation functions.

(c) (1) There are authorized to be appropriated for each fiscal year such sums, not in excess of 2½ per centum of the amount otherwise appropriated for such year for the purposes of this title, as may be necessary to carry out the provisions of this subsection.

(2) Notwithstanding any other provision of law the National Council established by subsection (a) of this section shall continue to exist until October 1, 1983.

(3) Notwithstanding the provisions of section 401(b) there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (a) of this section.

TITLE VI—EMERGENCY SCHOOL AID

SHORT TITLE

Sec. 601. This title may be cited as the "Emergency School Aid Act".

FINDINGS AND PURPOSE

Sec. 602. (a) The Congress finds that the process of eliminating or preventing minority group isolation and improving the quality of education for all children often involves the expenditure of additional funds to which local educational agencies do not have access.

(b) The purpose of this title is to provide financial assistance—

(1) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools; and

(2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students.

POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW

Sec. 603. (a) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

(b) It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

AUTHORIZATION

Sec. 604. (a) The Assistant Secretary shall, in accordance with the provisions of this title, carry out a program designed to achieve the purpose set forth in section 602(b). The Assistant Secretary shall delegate the responsibility for the operation of such program to the Commissioner.

(b)(1) There are authorized to be appropriated for the purposes of this title, to be apportioned among the States in accordance with section 605, $155,000,000 for fiscal year 1980 and for each of the three succeeding fiscal years.

(2) There are further authorized to be appropriated for the purpose of this title $245,000,000 for fiscal year 1980 and for each of the three succeeding fiscal years for special programs and projects under section 608 (except subsection (b) thereof) and under section 611, and for evaluations under section 613. From the amount appropriated under this subsection for any fiscal year, the Assistant Sesretary shall reserve 25 per centum for the purpose of carrying out programs and projects described in section 608(a) (1) through (3) and shall reserve 7 per centum for the projects described in section 611.

(3) There are further authorized to be appropriated for the purpose of this title $15,000,000 for the fiscal year 1980 and for each of the three succeeding fiscal years for programs and projects designed to support the development or implementation of plans under section 608(b).

(4) There are further authorized to be appropriated for the purpose of this title $7,250,000 and such additional sums as may be necessary for fiscal year 1980 and for each of the three succeeding fiscal years for providing compensatory services to students who had previously received such services funded in whole or in part under title I of the Elementary and a Secondary Education Act of 1965, but who are no longer receiving such services as a result of attendance area or enrollment changes under a plan implemented or ordered after August 21, 1974, if the plan meets the reqirements of section 606(a)(1)(A), (B), (C), or (D) for eligibility for assistance under this title.

APPORTIONMENT AMONG STATES

SEC. 605. (a) From the sums appropriated pursuant to section 604(b)(1) for any fiscal year, the Assistant Secretary shall apportion to each State for grants and contracts within the State $75,000 plus an amount which bears the same ratio to such sums as the number of minority group children aged five through seventeen, inclusive, in that State bears to the number of such children in all States, except that the amount apportioned to any State shall not be less than $100,000. The number of such children in each State and in all of the States shall be determined by the Assistant Secretary on the basis of the most recently available satisfactory data.

(b)(1) The amount by which any apportionment to a State for a fiscal year under subsection (a) exceeds the amount which the Assistant Secretary determines will be required for that fiscal year for programs and projects within that State shall be available either—

(A) for reapportionment to other States for which the amount so apportioned is insufficient for approvable programs or projects for that fiscal year, or

(B) for special programs and projects under section 608(a),

whichever the Assistant Secretary determines will best achieve the purposes of this title. The Assistant Secretary shall distribute any amounts reapportioned among the States pursuant to clause (A) in proportion to the need of eligible applicants in each such State for approvable programs or projects.

(2) The Assistant Secretary shall not fix a date for reapportionment, pursuant to this subsection, of any portion of any apportionment to a State for a fiscal year which date is earlier than one hundred and twenty days prior to the end of such fiscal year.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any apportionment to a State for a fiscal year shall be available for reapportionment pursuant to this subsection unless the Assistant Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such apportionment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth in sections 606, 607, and 610, or which set forth programs or projects of such insufficient promise for achieving the purposes of this title stated in section 602(b) that their approval is not warranted.

ELIGIBILITY FOR ASSISTANCE

SEC. 606. (a)(1) The Assistant Secretary is authorized to make a grant to, or a contract with, a local educational agency—

(A) which is implementing a plan—

(i) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in

such schools, and which may, in addition, require educational activities in minority group isolated schools not affected by the reassignment of children or faculty under the plan in order to remedy the effects of illegal segregation; or

(ii) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; or

(B) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency; or

(C) which has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement a plan—

(i) to eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency,

(ii) to reduce the total number of minority group children who are in minority group isolated schools of such agency, or

(iii) to prevent minority group isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 20 per centum, but not more than 50 per centum, of the enrollment consists of such children, or

(D) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who should not otherwise be eligible for enrollment besause of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing minority group isolation in one or more of the school district; or

(E) which is developing a plan of desegregation—

(i) issued by a court of the United States or a court of any State, or any other State agency or official of competent jurisdiction, or

(ii) undertaken by such agency voluntarily, and

which plan will require the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise will require the elimination or reduction of minority group isolation in such schools, or which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools, the period for such planning does not exceed two years.

Not more than one grant for the development of a plan under clause (E) of this paragraph may be made to any local educational agency. Receipt of a grant or contract under clause (E) of this paragraph shall not be used as an absolute defense in any court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction.

(2)(A) The Assistant Secretary is authorized, in accordance with special eligibility criteria established by regulation for the purposes of this paragraph, to make grants to, and contracts with, local educational agencies for the purposes of section 609(a)(1).

(B) A local educational agency shall be eligible for assistance under this paragraph only if—

(i) such agency is located within, or adjacent to, a Standard Metropiltan Statistical Area;

(ii) the schools of such agency are not attended by minority group children in a significant number or proportion; and

(iii) such local educational agency has made joint arrangements with a local educational agency, located within that Standard Metropolitan Statistical Area, and the schools of which are attended by minority group children in a significant proportion, for the establishment or maintenance of one or more integrated schools as provided in section 620(6).

(b) No local educational agency making application under this section shall be eligible to receive a grant or contract in an amount in excess of the amount determined by the Assistant Secretary, in accordance with regulations setting forth criteria established for such purpose, to be the additional cost to the applicant arising out of activities authorized under this title, above that of the activities normally carried out by the local educational agency.

(c)(1) Except as provided in paragraph (2), no educational agency shall be eligible for assistance under this if it has, after June 23, 1972—

(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any transferee which it knew or reasonably should have known to be a nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice, or permit to be practiced, discrimination on the basis of race, color, or national origin in the operation of any school activity;

(B) had in effect any practice, policy, or proceduce which results in the disproportionate demotion or dismissal or instructional or other personnel from minority groups in conjuction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, colar, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

(C) in conjunction with desegregation or the conduct of an activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of minority group from nonminority group children for a substantial portion of the school day, except that this clause does not prohibit the use of bona fide ability grouping by a local educational agency as a standard pedagogical practice; or

(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of minority group children in such activities, which discriminates among children on the basis of race, color, or national origin;

except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

(2) Whenever a local educational agency applies for assistance under clause (E) of section 606(a)(1), the provisions of clauses (C) and (D) of paragraph (1) of this subsection shall not apply if the local educational agency provides assurances in the application for assistance that the development of the plan for which assistance is sought will address the conditions in such clauses (C) and (D).

(3)(A) Applications for waivers under paragraph (1) may be approved only by the Secretary. The Secretary's functions under this paragraph shall, notwithstanding any other provision of law, not be delegated.

(B) Application for waiver shall be granted by the Secretary upon determination that any practice, policy, procedure or other activity resulting in ineligibility has ceased to exist, and that the applicant has given satisfactory assurance that the activities prohibited in this subsection will not reoccur.

(4) No application for assistance under this title shall be approved prior to a determination by the Secretary that the applicant is not ineligible by reason of this subsection.

(5) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

(6) All determinations and waivers pursuant to this subsection shall be in writing.

(7) The Assistant Secretary shall prepare and include in the annual report required by section 422(a)(4) of the General Education Provisions Act a list of all the waivers granted under this subsection for the preceding fiscal year.

AUTHORIZED ACTIVITIES

Sec. 607. (a) The Assistant Secretary shall make sums appropriated under section 604(a) for any fiscal year available for programs and projects designed to meet educational needs that arise from the development of or the implementation of a plan described in section 606(a). Those programs and projects may include, but are not limited to—

(1) the training of school staff and local educational agency staff in the handling of problems incident to the implementation of a qualifying plan;

(2) the provision of additional staff members (including teacher aides) to assist in meeting educational needs that arise from the implementation of the plan;

(3) the development or acquisition of new curricula, methods, practices, techniques, or materials to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups;

(4) innovative educational activities, including extracurricular activities, which involve the joint participation of minority group children and other children;

(5) community relations activities, including public information efforts, in support of the implementation of a qualifying plan;

(6) planning, evaluation, dissemination, and other administrative activities directly related and necessary to other activities in the program or project;

(7) repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities, where necessary to carry out other activities in the program or project;

(8) the provision of compensatory services to children who have received such services under title I of the Elementary and Secondary Education Act of 1965 but who are no longer eligible to receive those services as a result of attendance area changes under a qualifying plan;

(9) activities to prevent or eliminate recurring or continuing problems resulting from the implementation of a qualifying plan; and

(10) in the case of an applicant implementing a court-ordered desegregation plan under section 606(a)(1)(A)(i), the conduct of educational activities in one or more minority group isolated schools which are not affected by the reassignment of children or faculty under the plan, where the activities have been required by the court to remedy the effects of illegal segregation.

(b) In recruiting and hiring teacher aides to assist in carrying out a program or projects under this section the local educational agency shall give preference to parents of children affected by the implementation of a qualifying plan.

SPECIAL PROGRAMS AND PROJECTS

Sec. 608. (a) From the amount appropriated for any fiscal year under section 604(b), the Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public and private nonprofit agencies and organizations (or a combination of such agencies and organizations) for the purpose of carrying out activities which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this title, including, but not limited to—

(1) the planning for, deisgn of, and conduct of programs in magnet schools;

(2) the pairing of schools and programs with institutions of higher education and with businesses.

(3) the development of plans of neutral schools;

(4) activities designed to meet the needs of minority group children with limited English language skills enrolled in the schools of a local educational agency eligible for assistance under section 606; and

(5) the development and production of integrated children's television and radio programs of cognitive and affective educational value, as described in section 611.

(b) From the amount appropriated for any fiscal year under section 604(c), the Assistant Secretary, in cases in which it would effectively carry out the purpose of this title stated in section 602(b), may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan described in section 606(a).

(c)(1) From the amount available for the purposes of this section for each fiscal year, the Assistant Secretary shall carry out a program of making grants to State educational agencies, or other State agencies involved in or responsible for the desegregation of public elementary and secondary schools, to pay a portion of the cost of State activities related to—

(A) planning (i) for the implementation of voluntary plans to eliminate or reduce minority group isolation in those schools, and (ii) to assess future needs, and to develop further strategies to meet those needs;

(B) providing technical assistance to encourage local educational agencies or groups of those agencies to develop or implement voluntary plans to eliminate or reduce minority group isolation in those schools; and

(C) providing training for educational personnel involved in developing or carrying out a voluntary plan to eliminate or reduce minority group isolation in those schools.

(2) The amount of assistance made available to a State under this subsection for any fiscal year shall be twice the amount of State funds expended in the preceding fiscal year for the activities listed in paragraph (1). The amount provided to a State under this section for any fiscal year shall not exceed—

(A) 10 per centum of the amount apportioned to the State for that fiscal year under section 605, or

(B) $500,000,

whichever is greater.

(3) No grant may be made to a State under this subsection unless the application for that grant has been developed in consultation with teachers, educators, parents (including parents of minority group children), and representatives of the general public (including representatives of minority groups), of whom the proportion of minority group individuals shall be approximately the same as the proportion of minority group children enrolled in the elementary and secondary schools in the State.

METROPOLITAN AREA PROJECTS

SEC. 609. (a) Sums available to the Assistant Secretary under section 608 for metropolitan area projects shall be available for the following purposes:

(1) A program of grants to, and contracts with local educational agencies which are eligible under section 606(a) (2) in order to assist them in establishing and maintaining integrated schools as defined in section 618(4).

(2) A program of grants to groups of local educational agencies located in a Standard Metropolitan Statistical Area for the joint development of a plan to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in the Standard Metropolitan Statistical Area, which shall, as a minimum, provide that by a date certain, but in no event later than July 1, 1983, the percentage of minority group children enrolled in each school in the Standard Metropolitan Statistical Area shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools in the Standard Metropolitan Statistical Area. No grant may be made under this paragraph unless—

(A) two-thirds or more of the local educational agencies in the Standard Metropolitan Statistical Area have approved the application, and

(B) the number of students in the schools of the local educational agencies which have approved the application constitutes two-thirds or more of the number of students in the schools of all the local educational agencies in the standard metropolitan statistical area.

(b) In making grants and contracts under this section, the Assistant Secretary shall insure that at least one grant shall be for the purposes of paragraph (2) of subsection (a).

APPLICATIONS

SEC. 610. (a) Any local educational agency desiring to receive assistance under this title shall submit to the Assistant Secretary, at such time, in such form, and containing such information as the Assistant Secretary may prescribe, an application describing the activities to be carried out under the application during the period, not to exceed five academic years for which assistance is being sought. That application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary. The Assistant Secretary may approve an application only upon a determination that such application—

(1) has been developed—

(A) in open consultation with parents, teachers and, where applicable, secondary school students, including at least one public hearing at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereupon, and

(B) with the participation of a committee composed of parents of children enrolled in the applicant's schools,

teachers and, where applicable, secondary school students, of which at least half the members shall be such parents and at least half shall be persons from minority groups;

(2) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B);

(3) sets for such policies and procedures, and contains such information, as will insure that funds paid to the applicant under the application will be used solely to pay the additional cost to the applicant in carrying out the program described in the application;

(4) contains such assurances and other information as will insure that the program for which assistance is sought will be administered by the applicant, and that any funds received by the applicant, and any property derived therefrom, will remain under the administration and control of the applicant;

(5) provides that the plan with respect to which such agency is seeking assistance (as specified in section 606(a)(1)(A)) does not involve freedom of choice as a means of desegregation, unless the Assistant Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

(6) provides assurances that such agency will carry out, and comply with, all provisions, terms, and conditions of any plan, as described in section 606, upon which a determination of its eligibility for assistance under this title is based:

(7) sets forth such policies and procedures, and contains such information, as will insure that funds made available to the application (A) under this title will be so used (i) as to supplement the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purposes of the program for which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in such program, and (ii) in no case, as to supplant such funds from non-Federal sources, and (B) under any other law of the United States will, in accordance with standards established by regulation, be used in coordination with such programs to the extent consistent with such other law, except that nothing in this clause shall prohibit the use of funds under this title for otherwise authorized activities required under a court-ordered plan described in section 606(a)(1)(A)(i);

(8) provides that (A) to the extent consistent with the number of minority group children in the area to be served who are enrolled in private nonprofit elementary and secondary schools which are operated in a manner free from discrimination on the basis of race, color, or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools, whose participation would assist in achieving the purpose of this title stated in section 602(b), provides assurance that such agency (after consultation with the appropriate private school officials) has made provision

for their participation on an equitable basis, and (B) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 602(b), such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

(9) provides that the applicant has not reduced its fiscal effort per student or the aggregate expenditure for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

(10) provides that the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Assistant Secretary;

(11) sets forth effective procedures, including provisions for objective measurement of change in educational achievement and other change to be effected by programs conducted under this title, for the continuing evaluation of programs under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

(12) provides (A) that the applicant will make periodic reports at such time, in such form, and containing such information as the Assistant Secretary may prescribe, including, in the case of reports relating to performance, that the reports be consistent with specific criteria related to the program objectives and (B) that the applicant will keep such records and afford such access thereto as—

(i) will be necessary to insure the correctness of such reports and to verify them,

(ii) will be necessary to insure the public adequate access to such reports and other written materials; and

(13) provides that the applicant, in developing the program or project for which it seeks assistance, has considered the need for compensatory services for children who received those services under title I of the Elementary and Secondary Education Act of 1965, but who are no longer eligible to receive those services as a result of attendance area changes under a qualifying plan.

(b) No application under this section may be approved which is not accompanied by the written comments of a committee established pursuant to clause (2)(B) of subsectiton (a). The Assistant Secretary shall not approve an application without first affording the committee an opportunity for an informal hearing if the committee requests such a hearing.

(c) In approving applications submitted under this title (except for those submitted under sections 608(b) and 613) the Assistant Secretary shall apply the following criteria:

(1) the need for assistance based on the expense or difficulty of effectively carrying out a plan described in section 606(a) and the program or project for which assistance is sought;

(2) the degree to which implementation of the plan described in section 606(a) has effected or will effect a decrease in minority groups isolation in minority group isolated schools;

(3) the recentness of the implementation of the plan described in section 606(a);

(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title; and

(5) the degree to which the plan described in section 606 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(d)(1) An application of a local educational agency for assistance under this title may cover a period of from one to five years. A new application shall be required for any assistance under this title for years subsequent to that period. The Assistant Secretary shall base the decision as to the length of time for which an application will be approved on—

(A) the severity of the problems addressed by the program or project for which assistance is being sought;

(B) the nature of the activities proposed in the application;

(C) the likely duration of the problems addressed by the application; and

(D) such other criteria, established by the Assistant Secretary as will assure the most effective use of this title.

(2) If the Assistant Secretary approves an application of a local educational agency under this title for a period covering more than one fiscal year, no subsequent application shall be required from that agency in any fiscal year during that period unless the agency proposes to carry out, in any such fiscal year, activities not included in the approved application. However, payments to any such agency for any fiscal year subsequent to the first fiscal year for which the application has been approved shall be made only if—

(A) sufficient appropriations are available for making payments in each such subseqeunt fiscal year;

(B) the Secretary determines that the agency is not ineligible for assistance under section 606(d) in each subsequent fiscal year; and

(C) the agency demonstrates, by such means as the Assistant Secretary may prescribe, that satisfactory progress is being made toward achieving the objectives of the program or projects for which assistance has been made available under this title.

(e) The Assistant Secretary shall not give less favorable consideration to the application of a State or local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

(f) The Assistant Secretary may, from time to time, set dates by which applications shall be filed.

(g) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be a local educational agency described in section 606(a) and any one or more of such agencies joining in such application may be authorized to administer such program or project.

"(h) No State shall reduce the amount of State aid with respect to the provision of free public education in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.

EDUCATIONAL TELEVISION AND RADIO

Sec. 611. (a)(1) The Assistant Secretary shall carry out a program of making grants to, or contracts with, public or private nonprofit agencies, institutions, or organizations with the capability of providing expertise in the development of television and radio programing, in sufficient number to assure diversity, to pay the cost of development and production of integrated children's television and radio programs of cognitive and affective educational value.

(2) Television and radio programs developed in whole or in part with assistance provided under this title shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship.

(3) The Assistant Secretary may approve an application under this section only if he determines that the applicant—

(A) will employ members of minority groups in responsible positions in development, production, and administrative staffs;

(B) will use modern television and radio techniques of research and production; and

(C) has adopted effective procedures for evaluating educational and other changes achieved by children viewing the program.

(b) Grants and contracts pursuant to subsection (a) may be made from funds available to carry out section 608 (a) of this Act.

(c) Not to exceed 10 per centum of the amounts available for this section shall be used for grants and contracts for development and production of radio programing.

PAYMENTS

Sec. 612. (a) Upon his approval of an application for assistance under this title, the Assistant Secretary shall reserve from the applicable apportionment (including any applicable reapportionment) available therefor the amount fixed for such application.

(b) The Assistant Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

(c)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children nad staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (12) of section 610(a), the Assistant Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from

a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title stated in section 602(b). The services to be provided through arrangements made by the Assistant Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Assistant Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 608(a), from the sums available to the Assistant Secretary under section 604(b) for the purpose of that subsection.

(2) In determining the amount to be paid pursuant to paragraph (1), the Assistant Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

(3) If the Assistant Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (12) of section 610(a), he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Assistant Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

(d) After making a grant or contract under this title, the Assistant Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

EVALUATIONS

Sec. 613. From the amount appropriated under section 604(b) for any fiscal year, the Assistant Secretary is authorized to reserve for the purpose of this section not to exceed 1 per centum of the amount appropriated under this title for that fiscal year. From such reservation, the Assistant Secretary is authorized to make grants to, and contracts with, State educational agencies, institutions of higher education and private organizations, institutions, and agencies, including committees established pursuant to section 610(a)(2) for the purpose of evaluating specific program and projects assisted under this title.

JOINT FUNDING

Sec. 614. Pursuant to regulations prescribed by the President, where funds are advanced under this title, and by one or more other Federal *agencies for any project or activity funded in whole or in part under this title, any one of such Federal agencies may be designated to act for all in administering the funds advanced. In such cases any such agency may waive any technical grant or contract requirement (as defined by regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. Nothing in this section shall be construed to authorize (1) the use of any funds appropriated under this title for any purpose not authorized herein, (2) a variance of any reservation or apportionment under section 604 or 605, or (3) waiver of any requirement set for in sections 606 through 611.*

NATIONAL ADVISORY COUNCIL

SEC. 615. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representative of minority groups, appointed by the President, which shall—

(1) advise the Assistant Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the development of criteria for the approval of applications;

(2) review the operation of the program (A) with respect to its effectiveness in achieving its purpose as stated in section 602 (b), and (B) with respect to the Assistant Secretary's conduct in the administration of this program;

(3) meet not less than four times in the period during which the program is authorized, and submit through the Secretary, to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

(4) not later than December 1, 1983, submit to the Congress a final report on the operation of the program.

(b) The Assistant Secretary shall submit an estimate in the same manner provided under section 400(c) and part D of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions. Subject to section 448(b) of the General Education Provisions Act, such Council shall continue to exist until September 30, 1983.

ATTORNEY FEES

SEC. 616. Upon the entry of a final order by a court of the United States against a local educational agency, a State (or any agency thereof), or the United States (or any agency thereof), for failure to comply with any provision of this title or for discrimination on the basis of race, color, or national origin in violation of title VI of the Civil Rights Act of 1964, or the fourteenth amendment to the Constitution of the United States as they pertain to elementary and secondary education, the court, in its discretion, upon a finding that the proceedings were necessary to bring about compliance, may allow the prevailing part, other than the United States, a reasonable attorney's fee as part of the costs.

NEIGHBORHOOD SCHOOLS

SEC. 617. Nothing in this title shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis to adopt any other method of student assignment.

DEFINITIONS

SEC. 618. Except as otherwise specified, the following definitions shall apply to the terms used in this title:

(1) The term 'elementary' school' means a day or residential school which provides elementary education, as determined under State law.

(2) The term 'equipment' includes machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of educational services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

(3) The term 'institution of higher education' means an educational institution in any State which—

- *(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such certificate;*
- *(B) is legally authorized within such State to provide a program of education beyond high school;*
- *(C) provides an educational program for which it awards a bachelor's degree; or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological services which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;*
- *(D) is a public or other nonprofit institution; and*
- *(E) is accredited by a nationally recognized accrediting agency or association listed by the Assistant Secretary for the purpose of this paragraph.*

(4) For the purpose of section 606(a)(2) and section 609(a)(1), the term 'integrated school' means a school with an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, in which the proportion of minority group children is at least 50 per centum of the proportion of minority group children enrolled in all schools of the local educational agencies within the Standard Metropolitan Statistical Area, and which has a faculty and administrative staff with substantial representation of minority group persons.

(5) The term 'local educational agency means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a federally recognized Indian res-

ervation, or such combination of school districts, or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school and where responsibility for the control and direction of the activities in such schools which are to be assisted under this title is vested in any agency subordinate to such a board or other authority, the Assistant Secretary may consider such subordinate agency as a local educational agency for the purposes of this title.

(6) The term ‘magnet school’ means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

(7)(A) The term ‘minority group’ refers to (i) persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, Franco-American, Oriental, Alaskan natives, and Hawaiian natives and (ii) (except for the purpose of section 605), as determined by the Assistant Secretary, persons who are from environments in which a dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity, and (B) the term ‘Spanish-surnamed American’ includes persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry.

(8) The terms ‘minority group isolated school’ and ‘minority group isolation’ in reference to a school mean a school and condition, respectively, in which minority group children constitute more than 50 per centum of the enrollment of a school.

(9) The term ‘neutral site school’ means a school that is located so as to be accessible to substantial numbers of students of different racial backgrounds.

(10) The term ‘nonprofit’ as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(11) The term ‘secondary school’ means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(12) The term ‘Standard Metropolitan Statistical Area’ means the area in and around a city of fifty thousand inhabitants or more as defined by the Office of Management and Budget.

(13) The term ‘State’ means one of the fifty States or the District of Columbia, and for purposes of section 608(a), Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

(14) The term ‘State educational agency’ means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.”.

TITLE VII—BILINGUAL EDUCATION PROGRAMS

SHORT TITLE

Sec. 701. This title may be cited as the "Bilingual Education Act."

POLICY; APPROPRIATIONS

Sec. 702. (a) Recognizing—

(1) that there are large numbers of children [of limited English-speaking ability] *of limited English proficiency;*

(2) that many of such children have a cultural heritage which differs from that of English-speaking persons;

(3) that a primary means by which a child learns is through the use of such child's language and cultural heritage;

(4) that, therefore, large numbers of children *of limited English proficiency* [of limited English-speaking ability] have educational needs which can be met by the use of bilingual educational methods and techniques; [and]

(5) that, in addition, children [of limited English-speaking ability] *of limited English proficiency and children whose primary language is English* benefit through the fullest utilization of multiple language and cultural resources[.];

(6) children of limited English proficiency have a high dropout rate and low median years of education; and

(7) research and evaluation capabilities in the field of bilingual education need to be strengthened.".

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, and (B) for that purpose, to provide financial assistance to local educational agencies, and to State educational agencies for certain purposes, in order to enable such local educational agencies to develop and carry out such programs in elementary and secondary schools, including activities at the preschool level, which are designed to meet the educational needs of such children; and to demonstrate effective ways of providing, for children [of limited English-speaking ability] *of limited English proficency,* instruction designed to enable them, while using their native language, to achieve competence in the English language.

[(b)(1) Except as is otherwise provided in this title, for the purpose of carying out the provisions of this title, there are authorized to be appropriated $135,000,000 for the fiscal year ending June 30, 1974; $135,000,000 for the fiscal year ending June 30, 1975; $140,000,000 for the fiscal year ending June 3, 1976; $150,000,000 for the fiscal year ending June 30, 1977; and $160,000,000 for the fiscal year ending June 30, 1978.]

(b)(1) For the purpose of carrying out the provisions of this title, there are authorized to be appropriated $200,000,000 for the fiscal year 1979; $250,000,000 for the fiscal year 1980; $300,000,000 for the fiscal year 1981; $350,000,000 for the fiscal year ending 1982; and $400,000,000 for the fiscal year 1983.

(2) There are further authorized to be appropriated to carry out the provisions of section 721(b)(3) $6,750,000 for the fiscal year ending June 30, 1974; $7,250,000 for the fiscal year ending June 30, 1975; $7,750,000 for the fiscal year ending June 30, 1976; $8,750,000 for the fiscal year ending June 30, 1977; [and] $9,750,000 for the fiscal year ending June 30, 1978*; $12,000,000 for the fiscal year ending September 30, 1979; $14,000,000 for the fiscal year ending September 30, 1980; $16,000,000 for the fiscal year ending September 30, 1981; and such sums as may be necessary for each of the two succeeding fiscal years.*

[(3) From the sums appropriated under paragraph (1) for any fiscal year—

[(A) the Commissioner shall reserve $16,000,000 of that part thereof which does not exceed $70,000,000 for training activities carried out under clause (3) of subsection (a) of section 721, and shall reserve for such activities 33⅓ per centum of that part thereof which is in excess of $70,000,000; and

[(B) the Commissioner shall reserve from the amount not reserved pursuant to clause (A) of this paragraph such amounts as may be necessary, but not in excess of 1 per centum thereof, for the purposes of section 732.]

(3) From the sums appropriated under paragraph (1) for any fiscal year, the Commissioner shall reserve $16,000,000 of that part thereof that does not exceed $70,000,000 for training activities carried out under section 721(a)(3), and shall reserve for those activities not less than 20 per centum of that part thereof which is in excess of $70,000,000.

DEFINITIONS; REGULATIONS

SEC. 703. (a) The following definitions shall apply to the terms used in this title:

(1) The term ["limited English-speaking ability,"] "*limited English proficiency*" when used with reference to an individual, means—

(A) individuals who were not born in the United States or whose native language is a language other than English, and

(B) individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner by regulations;

and, by reasons thereof, [have difficulty speaking and understanding instruction in the English language] *have sufficient difficulty speaking, reading, writing, or understanding the English language to deny them the opportunity to attain levels comparable to others at their appropriate age and grade levels.*

(2) The term "native language," when used with reference to an individual [of limited English-speaking ability] *of limited English proficiency*, menas the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

(3) The term "low-income" when used with respect to a family means an annual income for such a family which does not exceed the low annual income determined pursuant to section 103 of title I of the Elementary and Secondary Education Act of 1965.

(4)(A) The term "program of bilingual education" means a program of instruction, designed for children of limited English-speaking ability in elementary or secondary schools, in which, with respect to the years of study to which such program is applicable—

(i) there is instruction given in, and study of, English and, to the extent necessary to allow a child to [progress effectively through the educational system] *achieve competence in the English language*, the native language of the children of limited English-speaking ability, and such instruction is given with appreciation for the cultural heritage of such children *and of other children in American society*, and, with respect to elementary *and secondary* school instruction, such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to progress effectively through the educational system; and

(ii) the requirements in subparagraphs (B) through (E) of this paragraph and established pursuant to subsection (b) of this section are met.

[(B) A program of bilingual education may make provision for the voluntary enrollment to a limited degree therein, on a regular basis, of children whose language is English, in order that they may acquire an understanding of the cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In determining eligibility to participate in such programs, priority shall be given to the children whose language is other than English. In no event shall the program be designed for the purpose of teaching a foreign language to English-speaking children.]

(B) In order to prevent the segregation of children on the basis of national origin in programs assisted under this title, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of bilingual instruction may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 per centum. The objective of the program shall be to assist children of limited English proficiency to improve their English language skills; and the participation of other children in the program must be for the principal purpose of contributing to the achievement of that objective. The program may provide for centralization of teacher training and curriculum development, but shall serve such children in the schools which they normally attend.";

(C) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English-speaking ability in regular classes.

(D) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

[(E) An application for a program of bilingual education shall be developed in consultation with parents of children of limited English-speaking ability, teachers, and, where applicable, secondary school students, in the areas to be served, and assurances shall be given in the application that, after the application has been approved under this title, the applicant will provide for participation by a committee composed of, and selected by, such parents, and, in the case of secondary schools, representatives of secondary school student to be served.]

(E) An application for a program of bilingual education shall—

(i) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of children of limited English proficiency, in accordance with criteria prescribed by the Commissioner;

(ii) be accompanied by any comments such council may have on the application; and

(iii) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with and participation by a committee of parents, teachers, and other interested individuals (of which a majority shall be parents of children of limited English proficiency) which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served.

(F) Parents of children participating in a program of bilingual education shall be informed of the instructional goals of the program and the progress of their children in such program.

(5) The term "Office" means the Office of Bilingual Education.

(6) The term "Director" means the Director of the Office of Bilingual Education.

(7) The term "Council" means the National Advisory Council on Bilingual Education.

(8) The term "other programs for persons [of limited English-speaking ability] *of limited English proficiency*" when used in sections 731 and 732 means [the program] *any programs within the Office of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the program* authorized by section 708(c) of the Emergency School Aid Act and the programs carried out in coordination with the provisions of this title pursuant to section 122(a)(4)(C) and part J of the Vocational Education Act of 1963, and section 306(a)(11) of the Adult Education Act, and programs and projects serving areas with high concentrations of persons of limited English-speaking ability pursuant to section 6(b)(4) of the Library Services and Construction Act.

(b) The Commissioner, after receiving recommendations from State and local educational agencies and groups and organizations involved in bilingual education, shall establish, publish, and distribute, with respect to programs of bilingual education, suggested models with respect to pupil-teacher ratios, teacher qualifications, and other factors affecting the quality of instruction offered in such programs.

(c) In prescribing regulations under this section, the Commissioner shall consult with State and local educational agencies, appropriate organizations representing parents and children [of limited English-speaking ability] *of limited English proficiency*, and appropriate groups and organizations representing teachers and educators involved in bilingual education.

PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

BILINGUAL EDUCATION PROGRAMS

SEC. 721. (a) Funds available for grants under this part shall be used for—

(1) the establishment, operation, and improvement of programs of bilingual education;

(2) auxilitary and supplementary community and educational activities designed to facilitate and expand the implementation of programs described in clause (1), including such activites as (A) adult education programs related to the purposes of this title, particiularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act, and (B) preschool programs preparatory and supplementary to bilingual education programs;

(3)(A) the establishment, operation, and improvement of training programs for personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education and (B) auxiliary and supplementary training programs, which shall be included in each program of bilingual education, for personnel preparing to participate in, or personnel participating in, the conduct of such programs; and

(4) planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

(b)(1) A grant may be made under this section only upon application therefor by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies (or, in the case of a training activity described in clause (3)(A) of subsection (a) of this section, by eligible applicants as defined in section 723). Each such application shall be made to the Commissioner at such time, in such manner, and containing such infromation as the Commissioner deems necessary; and

(A) include a description of the activities set forth in one or more of the clauses of subsection (a) which the applicant desires to carry out; and

(B) provide evidence that the activities so described will make substantial progress toward making programs of bilingual education available to the children having need thereof in the area served by the applicant.

(2) An application for a grant under this part may be approved only if—

(A) the provision of assistance proposed in the application is consistent with criteria established by the Commissioner, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, which criteria shall be developed by his taking into consideration (i) the geographic distribution of children of limited English-speaking ability, (ii) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in subsection (a), (iii) with respect to grants to carry out programs described in clauses (1) and (2) of subsection (a) of section 721, the relative ability of particular local educational agencies within the State to provide such services and activities, and (iv) with respect to such grants, the relative numbers of persons from low-income families sought to be benefitted by such programs;

(B) in the case of applications from local educational agencies to carry out programs of bilingual education under clause (1) of subsection (a) of section 721, [the Commissioner determines that not less than 15 per centum of the amounts paid to the applicant for the purposes of such programs shall be expended] *the Commissioner determines that the applicant has made adequate provision for carrying out programs* for auxiliary and supplementary training programs in accordance with the provisions of clause (3) (B) of such subsection section 723;

(C) the Commissioner determines (i) that the program will use the most qualified available personnel and the best resources and will substantially increase the educational oportunities for children of limited English-speaking ability in the area to be served by the applicant, [and] (ii) that, to the extent consistent with the number of children enrolled in nonprofit, nonpublic schools in the area to be served whose educational needs are of the type which the program is intended to meet, provision has been made for participation of such children, *and (iii) that the program includes a plan for evaluation consistent with guidelines prescribed by the Commission; and*

(D) the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner[.]

(E) the Commissioner determines that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program of bilingual education on a regular basis that will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and the the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

(F) the program of bilingual education for which assistance is sought will (i) serve those children most in need of assistance under this title, (ii) provide measurable goals for determining when those children no longer need such assistance, and (iii) provide, from State and local sources, for necessary followup services to sustain the achievement of the children after they have left the program;

(G) Federal funds made available for the project or activity will be so used as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this clause shall (i) prohibit the use of funds made available under this title to enable the applicant to comply with an order of a court of the United States or of any

State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children, or (ii) authorize any priority or preference to be assigned by the Commissioner to the funding of the activities under this title; and

(H) the applicant demonstrates that, to the extent possible, personnel recruited and employed to carry out projects and activities under this title are bilingual.".

(3) In the consideration of initial applications from local educational agencies to carry out programs of bilingual education under paragraph (1) of this subsection, the Commissioner shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency that have historically been underserved by programs of biliginual education. In approving such applications, the Commissioner shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability to particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families sought to be benefited by such programs.

(3)(A) Upon an application from a State educational agency, the Commissioner shall make provision for the submission and approval of a State program for the coordination by such State agency of technical assistance to programs of bilingual education in such State assisted under this title. Such State program shall contain such provisions, agreements, and assurances as the Commissioner shall, by regulations, determine necessary and proper to achieve the purposes of this title, including assurances that funds made available under this section for any fiscal year will be so used as to supplement, and to the extent practical, increase the level of funds that would, in the absence of such funds be made available by the State for the purposes desccribed in this section, and in no case to supplant such funds.

(B) Except as is provided in the second sentence of this subparagraph, the Commissioner shall pay from the amounts authorized for these purposes pursuant to section 702 for each fiscal year to each State educational agency which has a State program submitted and approved under subparagraph (A) such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Commissioner to any State educational agency under the preceding sentence for any fiscal year shall not exceed 5 per centum of the aggregate of the amounts paid under this part to local educational agencies in the State of such State educational agency in the fiscal year preceding the fiscal year in which this limitation applies.

(c) In determining the distribution of funds under this title, the Commissioner shall give priority to areas having the greatest need for programs assisted under this title.

(d) Programs of bilingual education under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development and evaluation and testing designed to improve

the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

(e)(1) An application of a local educational agency for assistance under this title may cover a period of from one to three years. A new application shall be required for any assistance under this title for years subsequent to such period. The Commissioner shall base the decision as to the length of time for which an application will be approved on—

(A) the severity of the problems addressed by the program for which assistance is being sought;

(B) the nature of the activities proposed in the application;

(C) the likely duration of the problems addressed by the application; and

(D) such other criteria, established by the Commissioner, as will assure the most effective use of the available funds in achieving the purposes of this title.

(2) If the Commissioner approves an application of a local educational agency under the title for a period covering more than one fiscal year, no subsequent application shall be required from such agency in any fiscal year during such period unless the agency proposes to carry out, in any such fiscal year, activities not included in the approved application. Payments to any such agency for any fiscal year subsequent to the first fiscal year for which the application has been approved shall be made only if—

(A) sufficient appropriations are available for making payments in each such subsequent fiscal year;

(B) the Commissioner determines that the agency is not ineligible for assistance under this title in each subsequent fiscal year; and

(C) the agency demonstrates, by such means as the Commissioner may prescribe, that satisfactory progress is being made toward achieving the objectives of the program for which assistance has been made available under this title.

(f) If the Commissioner determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, nonpublic schools, as required by paragraph (2)(C)(ii) of subsection (b), the Commissioner shall—

(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements; or

(2) reduce the amount of the grant to such applicant by the amount which is required for the Commissioner to arrange (such as though a contract with a nonprofit, nonsecular agency, organization, or institution) to assess the needs of the children in the area to be served for a program of bilingual instruction and to carry out such a program for the children.".

INDIAN CHILDREN IN SCHOOLS

SEC. 722. (a) For the purpose of carrying out programs under this part for individuals served by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this title.

[(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to the Secretary of the Interior to carry out programs of bilingual education for children on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for such purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 702(a).

[(c) The Secretary of the Interior shall prepare and, not later than November 1 of each year, shall submit to the Congress and the President an annual report detailing a review and evaluation of the use, during the preceding fiscal year, of all funds paid to him by the Commissioner under subsection (b) of this section, including complete fiscal reports, a description of the personnel and information paid for in whole or in part with such funds, the allocation of such funds, and the status of all programs funded from such payments. Nothing in this subsection shall be construed to relieve the Director of any authority or obligation under this part.

[(d) The Secretary of the Interior shall, together with the information required in the preceding subsection, submit to the Congress and the President, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by agencies and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.]

(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

(c) The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Commissioner, by September 30, 1980, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

TRAINING

SEC. 723. (a)(1) In carrying out the provisions of clauses (1) and (3) of subsection (a) of section 721, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, as defined in subsection (b), provide for—

(A)(i) training, carried out in coordination with any other programs training auxiliary educational personnel, designed (I) to prepare personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and lateral mobility, (II) to train teachers, administrators, counselors, paraprofessionals, teacher aides, and parents, and (III) to train persons to teach and counsel such persons, and (ii) special training programs designed (I) to meet individual needs, and (II) to encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school facilities, as related to bilingual education; and

(B) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs.

(2) In addition the Commissioner is authorized to award fellowships for study in the field of training teachers for bilingual education. For the fiscal year ending June 30, 1975, not less than 100 fellowships leading to a graduate degree shall be awarded under the preceding sentence for preparing individuals to train teachers for programs of bilingual education. Such fellowships shall be awarded in proportion to the need for teachers of various groups of individuals with limited English-speaking ability. For each fiscal year after June 30, 1975, and prior to [October 1, 1978] *October 1, 1983* the Commissioner shall report to the Committee on Education and Labor of the House of Representatives and the [Committee on Labor and Public Welfare] *Committee on Human Resources* of the Senate on the number of fellowships in the field of training teachers for bilingual education which he recommends will be necessary for that fiscal year.

(3) The Commissioner shall include in the terms of any arrangement described in paragraphs (1) and (2) of subsection (a) of this section provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistance and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(4) In making grants or contracts under this section, the Commissioner shall give priority to eligible applicants with demonstrated competence and experience in the field of bilingual education. Funds provided under grants or contracts for training activities described in this section to or with a State educational agency, separately or jointly, shall in no event exceed in the aggregate in any fiscal year 15 per centum of the total amount of funds obligated for training activities pursuant to clauses (1) and (3) of subsection (a) of section 721 in such year.

(5) The Commissioner shall undertake an ongoing longitudinal study of the impact of recipients of such fellowships on the field of bilingual education, and shall disseminate research undertaken by recipients of such fellowships.

(6) Any person receiving assistance under this subsection shall work for a period equivalent to the period of time during which such person

received assistance, and such work shall be in an activity related to the training of teachers and related personnel in bilingual education. The Commissioner may, pursuant to regulations, waive the requirement of this paragraph in extraordinary circumstances.

(7) The Commissioner shall issue regulations specifying such activities as shall constitute training under this section.

[(5)] *(8)* An application for a grant or contract for preservice or inservice training activities described in clause (A)(i)(I) and clause (A)(ii)(I) and in subsection (a)(1)(B) of this section shall be considered an application for a program of bilingual education for the purposes of subsection (a)(4)(E) of section 703.

(b) For the purposes of this section, the term "eligible applicants" means—

[(1) institutions of higher education (including junior colleges and community colleges) which apply, after consultation with, or jointly with, one or more local educational agencies;

[(2) local educational agencies; and

[(3) State educational agencies.]

(1) institutions of higher education (including junior colleges, community colleges), private nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency;

(2) local educational agencies; and

(3) State educational agencies.".

PART B—ADMINISTRATION

OFFICE OF BILINGUAL EDUCATION

SEC. 731. (a) There shall be, in the Office of Education, an Office of Bilingual Education (hereafter in this section referred to as the "Office") through which the Commissioner shall carry out his functions relating to bilingual education.

[(b)(1) The Office shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education]

(b)(1) The Office shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Commissioner.

(2) The Office shall be organized as the Director determines to be appropriate in order to enable him to carry out his functions and responsibilities effectively.

(c) The Commissioner, in consultation with the Council, shall prepare and, [not later than November 1, 1976, and February 1, 1978] shall submit to the Congress and the [President a] *President an annual* report on the condition of bilingual education in the Nation and the administration and operation of this title and of other programs for persons of limited English-speaking ability. Such report shall include—

(1) a national assessment of the educational needs of children and other persons with limited English-speaking ability and of the extent to which such needs are being met from Federal, State, and local efforts, including (A) not later than October 1, 1977, the results of a survey of the number of such children and persons in the States, and (B) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary school children and other persons of limited English-speaking ability, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

(2) a report on and an evaluation of the activities carried out under this title during the preceding fiscal year and the extent to which each of such activities achieves the policy set forth in section 702(a);

(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons of limited English-speaking ability and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs, and the number of other educational personnel needed to carry out programs of bilingual education in the States and a statement describing the activities carried out under this title designed to prepare teachers and other educational personnel for such programs; and

(5) a description of the personnel, the functions of such personnel, and information available at the regional offices of the Department of Health, Education, and Welfare dealing with bilingual programs within that region.

The Commissioner shall conduct a study on the extent of the need for these programs in the Commonwealth of Puerto Rico, and shall report the results thereof, together with recommendations, to the President and Congress, in the first annual report submitted, pursuant to this subsection, more than ninety days after the date of enactment of the Education Amendments of 1978.

(d) The Commissioner shall, within six months after the date of the enactment of the Education Amendments of 1978, develop and publish in the Federal Register (1) models for programs of bilingual education which may include suggested teacher-pupil ratios, teacher qualifications, and other factors affecting the quality of instruction offered, and which shall represent a variety of types of such programs, and (2) models for the evaluation of such programs as to the progress made by participants therein attaining English language skills.

(e)(1) The Secretary, in consultation with the Council, shall prepare and, not later than September 30, 1980, submit to the Congress and the President a report identifying the approximate number of children with limited English language skills in the Nation, by language and by State.

(2) By September 30, 1980, the Secretary shall develop methods for identifying children with limited English language skills who are in need of bilingual education programs.

(3) By September 30, 1980, the Secretary shall develop evaluation and data gathering models, which take into account linguistic and cultural differences of the child, which consider the availability and the operations of State programs for such children, and shall include allowances for variables which are applicable to programs under this title such as pupil-teacher ratios, teacher qualifications, length of the program, hours of instruction, percentage of children in the classroom who are English dominant and the percentage who have limited English language skills.

(f) In order to maximize Federal efforts aimed at serving the educational needs of children with limited English language skills, the Commissioner shall coordinate and closely cooperate with other programs administered by the Office of Education, including such areas as teacher training, program content, research, and curriculum. The Commissioner's annual report under subsection (c) shall include demonstration that such coordination has taken place.

(g) The Commissioner shall insure that the Office of Bilingual Education is adequately staffed to discharge effectively the provisions of this title.".

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

S53. 732. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory Council on Bilingual Education composed of fifteen members appointed by the Secretary, one of whom he shall designate as Chairman. At least eight of the members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are of limited English-speaking ability, at least one of whom shall be representative of persons serving on boards of education operating programs of bilingual education. At least [three members] *two members* shall be experienced in the training of teachers in programs of bilingual education. At least two members shall be persons with general experience in the field of elementary and secondary education. At least two members shall be classroom teachers of demonstrated teaching abilities using bilingual methods and techniques. *The Council shall also include at least two parents of students whose language is other than English and at least one State educational agency representative and one member at large.* The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons of limited English-speaking ability and the geographic areas in which they reside. Subject to section 448 (b) of the General Education Provisions Act, the Advisory Committee shall continue to exist until [July 1, 1978] *October 1, 1983.*

(b) The Council shall meet at the call of the Chairman, but, notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less than four times in each year.

(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications, and plans under this title, and the administration and operation of other programs for persons of limited English-speaking ability. The Council shall prepare and, not later than March 31 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title including those items specified in section 731(c), and the administration and operation of other programs for persons of limited English-speaking ability.

(d) The Commission shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445, of the General Education Provisions Act, and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively.

PART C—SUPPORTIVE SERVICES AND ACTIVITIES

ADMINISTRATION

SEC. 741 (a) The provisions of this part shall be administered by the Assistant Secretary, in consultation with—

(1) the Commissioner, through the Office of Bilingual Education; and

(2) the Director of the National Institute of Education, notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act;

in accordance with regulations.

(b) The Assistant Secretary shall, in accordance with clauses (1) and (2) of subsection (a), develop and promulgate regulations for this part and then delegate his functions under this part, as may be appropriate under the terms of section 742.

[RESEARCH AND DEMONSTRATION PROJECTS

[SEC. 742. (a) The National Institute of Education shall, in accordance with the provisions of section 405 of the General Education Provisions Act, carry out a program of research in the field of bilingual education in order to enhance the effectiveness of bilingual education programs carried out under this title and other programs for persons of limited English-speaking ability.

[(b) In order to test the effectiveness of research findings by the National Institute of Education and to demonstrate new or innovative practices, techniques, and methods for use in such bilingual education programs, the Director of the National Institute of Education and the Commissioner are authorized to make competitive contracts with public and private educational agencies, institutions, and organizations for such purposes.

[(c) In carrying out their responsibilities under this section, the Commissioner and the Director of the National Institute of Education shall, through competitive contracts with appropriate public and private agencies, institutions, and organizations—

[(1) undertake studies to determine the basic educational needs and language acquisition characteristics of, and the most effective conditions for, educating children of limited English-speaking ability;

[(2) develop, and disseminate instructional materials and equipment suitable for use in bilingual education programs; and

[(3) establish and operate a national clearinghouse of information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and such bilingual education and related programs.

[(d) In carrying out their responsibilities under this section, the Commissioner and the Director of the National Institute of Education shall provide for periodic consulation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

[*(e) There is authorized to be appropriated for each fiscal year prior to July 1, 1978, $5,000,000 to carry out the provisions of this section.*

BILINGUAL EDUCATION RESEARCH AND DEVELOPMENT

SEC. 742. (a) (1) The Commissioner shall through competitive contract under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private and non-profit organizations, State educational agencies, and individuals.

(2) The National Institute of Education, after consultation with the Office of Bilingual Education, shall carry out a program of research in the field of bilingual education in order to enhance the effectiveness of bilingual education carried out under this title and other programs for persons who have language proficiencies other than English.

(3) The Assistant Secretary shall coordinate research activities of the National Institute, with the Office of Bilingual Education, the National Center for Education Statistics, and other appropriate agencies, in order to develop a national research program for bilingual education.

(b) Research activities authorized to be assisted under this section shall include—

(1) studies to determine and evaluate effective models for bilingual-bicultural programs;

(2) studies to determine (A) language acquisition characteristics and (B) the most effective method of teaching English within the context of a bilingual-bicultural program to students who have language proficiencies other than English;

(3) a five-year longitudinal study in order to measure the effect of this Act on the education of students who have language proficiencies other than English;

(4) studies to determine the most effective and reliable methods of identification of students who should be entitled to services under this Act;

(5) the operation of a clearinghouse of information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and such related programs;

(6) studies to determine the most effective methods of teaching reading to children and adults who have language proficiencies other than English:

(7) studies to determine the effectiveness of teacher training pre-service and in-service programs funded under this Act;

(8) studies to determine the critical cultural characteristics of selected groups of individuals assisted under this Act for purposes of teaching culture in the program.

(c) In carrying out their responsibilities under this section, the Commissioner and Director of the National Institute of Education shall provide for periodic consultation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

(d) The Assistant Secretary shall publish and disseminate all requests for proposals in research and development assisted under this Act.

(e) There is authorized to be appropriated for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, $20,000,000 to carry out the provisions of this section."

TITLE VIII—GENERAL PROVISIONS

DEFINITIONS

SECTION 801. As used in title II, III, IV, V, [VI, and VII] *VII, IX, X, XI, and XII* of this Act, except when otherwise specified—

(a) The term "Commissioner" means the Commissioner of Education.

(b) The term "construction" means (1) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefore; or (2) acquisition of existing structures not owned by any agency or institution making application for assistance under this Act; or (3) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (4) a combination of any two or more of the foregoing.

(c) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(d) The term "equipement" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(e) The term "institution of higher education" means an educational institution in any State which—

(1) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) is legally authorized within such State to provide a program of education beyond high school;

(3) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical

or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however*, That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requires the understanding and application of basic engineering, scientific, or mathematical principles or knowledge if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

(f) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such terms also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(g) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(h) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(i) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(j) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands and for purposes of titles II, III, IV, V, [and VII] *VII, IX, X, XI, and XII*, such terms also includes the Trust Territory of the Pacific Islands *and the Northern Mariana Islands.*

(k) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

[(l) The term "gifted and talented children" means, in accordance with objective criteria prescribed by the Commissioner, children who have outstanding intellectual ability or creative talent the development of which requires special activities or services not ordinarily provided by local educational agencies.]

FEDERAL ADMINISTRATION

SEC. 803. (a) (Repealed).

(b) (Repealed).

(c) In administering the provisions of this Act and any Act amended by this Act, the Commissioner shall consult with other Federal departments and agencies administering programs which may be effectively coordinated with programs carried out pursuant to such Acts, and the the extent practicable for the purposes of such Acts shall coordinate such programs on the Federal level with the programs being administered by such other departments and agencies. Federal departments and agencies administering programs which may be effectively coordinated with programs carried out under this Act or any Act amended by this Act, including community action programs carried out under title II of the Economic Opportunity Act of 1964, shall, to the fullest extent permitted by other applicable law, carry out such programs in such a manner as to assist in carrying out, and to make more effective, the programs under this Act or any Act amended by this Act.

STATUTE OF LIMITATIONS ON REFUND OF PAYMENTS

SEC. 804. No State or local educational agency shall be liable to refund any payment made to such agency under this Act (including title I of this Act) which was subsequently determined to be unauthorized by law, if such payment was made more than five years before such agency received final written notice that such payment was unauthorized.

LIMITATION ON PAYMENTS UNDER THIS ACT

SEC. 805. Nothing contained in this Act shall be construed to authorize the making of any payment under this Act, or under any Act amended by this Act, for religious worship or instruction.

[DROPOUT PREVENTION PROJECTS

[SEC. 807. (a) The Commissioner is authorized to arrange by contract grant, or otherwise, with local educational agencies for the carrying out by such agencies in schools which (1) are located in urban or rural areas, (2) have a high percentage of children from families with an income not exceeding the low-income factor, as defined in section 103(c), and (3) have a high percentage of such children who do not complete their education in elementary or secondary school, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children who do not complete their education in elementary and secondary schools.

[(b) The Commissioner shall approve arrangements pursuant to this section only on application by a local educational agency and upon his finding:

[(1) that the project will be carried out in one or more schools described in subsection (a);

[(2) that the applicant has analyzed the reasons for such children not completing their education and has designed a program to meet this problem;

[(3) that effective procedures, including objective measurements of educational achievements, will be adopted for evaluating at least annually by effectiveness of the project; and

[(4) that the project has been approved by the appropriate State educational agency.

[(c) For the purpose of carrying out the provisions of this section, there is hereby authorized to be appropriated $30,000,000 for each of the fiscal years ending June 30, 1970, and June 30, 1971, $31,500,000 for the fiscal year ending June 30, 1972, and $33,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.]

[GRANTS FOR DEMONSTRATION PROJECTS TO IMPROVE SCHOOL NUTRITION AND HEALTH SERVICES FOR CHILDREN FROM LOW-INCOME FAMILIES

[SEC. 808. (a) The Secretary shall carry out a program of making grants to local educational agencies and, where appropriate, nonprofit private educational organizations, to support demonstration projects designed to improve nutrition and health services in public and private schools serving areas with high concentrations of children from low-income families.

[(b) Funds appropriated pursuant to subsection (d) shall be available for grants pursuant to applications approved under this section to pay the cost of (1) coordinating nutrition and health service resources in the areas to be served by a demonstration project supported under this section, (2) providing supplemental health, nutritional, mental health, and food services to children from low-income families when the resources for such services available to the applicant from other sources are inadequate to meet the needs of such children, (3) nutrition and health education programs designed to train professional and other school personnel to provide nutrition and health services in a manner which meets the needs of children from low-income families for such services, and (4) the evaluation of projects assisted under this section with respect to their effectiveness in improving school nutrition and health services for such children.

[(c) Applications for a grant under this section shall be submitted at such time, contain such information, and be consistent with such criteria as the Secretary may require by regulation. Such applications shall provide for—

[(1) the use of funds available under this section and the coordination of health care facilities and resources and such nutrition resources as may be available to the applicant in order to insure that a comprehensive program of physical and mental health and nutrition services are available to children from low-income families in the area to be served;

[(2) the development of health and nutrition curriculum materials related to the specific needs of persons involved with the project and to new and improved approaches to health services and food technology;

[(3) the training of (A) school administrators, teachers, and school health and nutrition personnel in order to assist them in meeting the health and nutritional needs of children from low-income families, and (B) professional and subprofessional personnel for service in school nutrition and health programs; and

[(4) adequate provision for evaluation of the project.

[(d) For the purpose of making grants under this section there are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1970, $10,000,000 for the fiscal year ending June 30, 1971, $16,000,000 for the fiscal year ending June 30, 1972, and $26,000,000 for the fiscal year ending June 30, 1973, and each of the five succeeding fiscal years, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.]

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

SEC. 810. (a) The Commissioner shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate (A) the provision of educational services not available to Indian children in sufficient quantity or quality, and (B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as education personnel; and

(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

In the case of activities of the type described in clause (3) preference shall be given to the training of Indians.

(b) The Commissioner is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, organizations, and institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate effectiveness of, programs for improving educational opportunities for Indian children, including—

(1) innovative programs related to the educational needs of educationally deprived children;

(2) bilingual and bicultural educational programs and projects;

(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

(4) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

(c) The Commissioner is also authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Grants may be used—

(1) to provide educational services not available to such children in sufficient quantity or quality, including—

(A) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(B) comprehensive academic and vocational instruction;

(C) instructional materials (such as library books, textbooks, and other printed or published or audiovisual materials) and equipment;

(D) comprehensive guidance, counseling, and testing services;

(E) special education programs for handicapped;

(F) preschool programs;

(G) bilingual and bicultural education programs; and

(H) other services which meet the purposes of this subsection; and

(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

(d) The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

(1) to prepare persons to serve Indian children as teachers, teacher aides, social workers, and ancillary educational personnel; and

(2) to improve the qualifications of such persons who are serving Indian children in such capacities.

Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences. In carrying out the programs authorized by this subsection, preference shall be given to the training of Indians.

(e) The Commissioner is also authorized to make grants to and contracts with, public agencies, and institutions and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

(2) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

(f) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

(1) set forth a statement describing the activities for which assistance is sought;

(2) in the case of an application for the purposes of subsection (c), subject to such criteria as the Commissioner shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

(3) in the case of an application for the purposes of subsection (c), make adequate provision for the training of the personnel participating in the project; and

(4) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. The Commissioner shall not approve an application for a grant under subsection (b), (c), or (d) unless he is satisfied that such an application, to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, makes provision for the participation of such children on an equitable basis. In approving applications under this section, the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

(g) For the purpose of making grants under this section there are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and $35,000,000 for each of the succeeding fiscal years ending prior to [July 1, 1978.] *October 1, 1983*

CONSUMERS' EDUCATION PROGRAMS

SEC. 811. (a)(1) There shall be within the Office of Education an Office of Consumers' Education (hereafter in this section referred to as the 'Office') which shall be headed by a Director of Consumers' Education (hereafter in this section referred to as the 'Director') who, subject to the management of the Commissioner, shall have responsibility for carrying out the provisions of this section.

(2) The Director shall be appointed by the Commissioner in accordance with the provisions of title 5 of the United States Code relating to appointments to the competitive service.

(b)(1)(A) The Director shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private agencies, organizations, and institutions (including libraries) to support research, demonstration, and pilot projects designed to provide consumer education to the public except that no grant may be made other than to a nonprofit agency, organization, or institution.

(B) Funds appropriated for grants and contracts under this section shall be available for such activities as—

(i) the development of curricula (including interdisciplinary curricula) in consumer education;

(ii) dissemination of information relating to such curricula;

(iii) in the case of grants to State and local educational agencies and institutions of higher education, for the support of education programs at the elementary and secondary and higher education levels; and

(iv) preservice and inservice training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with consumer education.

In addition to the activities specified in the first sentence of this paragraph, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any such activities, whether or not assisted under this section. Activities pursuant to this section shall provide bilingual assistance when appropriate.

(C) Financial assistance under this subsection may be made available only upon application to the Director. Applications under this subsection shall be submitted at such time, in such form, and containing such information as the Director shall prescribe by regulation and shall be approved only if it—

(i) provides that the activities and services for which assistance is sought will be administered by, or under the supervision of, the applicant;

(ii) describes a program for carrying out one or more of the purposes set forth in the first sentence of subparagraph (B) which holds promise of making a substantial contribution toward attaining the purposes of this section;

(iii) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

(iv) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical in-increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this section, and in no case supplant such funds;

(v) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of an accounting for Federal funds paid to the applicant under this section; and

(vi) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

Applications from local educational agencies for financial assistance under this section may be approved by the Director only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

(2) Federal assistance to any program or project under this subsection, other than those involving curriculum development, dissemination of curricular materials, and evaluation, shall support up to 100 per centum of the cost of such program including costs of administration; contributions in kind are acceptable as local contributions to program costs.

(c) Each recipient of Federal funds under this section shall make such reports and evaluations as the Commissioner shall prescribe by regulation.

(d) For the purpose of carrying out this section, the Commissioner is authorized to expend not to exceed $15,000,000 for each fiscal year ending prior to July 1, 1978.[1]

OPEN MEETINGS OF EDUCATIONAL AGENCIES

SEC. 812. No application for assistance under this Act may be considered unless the local educational agency making such application certifies to the Commissioner that members of the public have been afforded the opportunitity upon reasonable notice to testify or otherwise comment regarding the subject matter of the application. The Commissioner is authorized and directed to establish such regulations as necessary to implement this section.

TITLE IX—ETHNIC HERITAGE PROGRAM

STATEMENT OF POLICY

SEC. 901. In recognition of the heterogenous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all persons in the educational institutions of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this title to provide assistance designed to afford to students opportunities to learn about the nature of their own cultural heritage, and to study the contributions of the cultural heritages of the other ethnic groups of the Nation.

ETHNIC HERITAGE STUDIES PROGRAMS

SEC. 902. The Commissioner is authorized to make grants to, and contracts with, public and private nonprofit educational agencies, institutions, and organizations to assist them in planning, developing, establishing, and operating ethnic heritage studies programs, as provided in this title.

AUTHORIZED ACTIVITIES

SEC. 903. Each program assisted under this title shall—

(1) develop curriculum materials for use in elementary or secondary schools or institutions of higher education relating to the history, geography, society, economy, literature, art, music, drama, language, and general culture of the group or groups with which the program is concerned, and the contributions of that ethnic group or groups to the American heritage; or

(2) disseminate curriculum materials to permit their use in elementary or secondary schools or institutions of higher education throughout the Nation; or

(3) provide training for persons using, or preparing to use, curriculum materials developed under this title; and

(4) cooperate with persons and organizations with a special interest in the ethnic group or groups with which the program is concerned to assist them in promoting, encouraging, developing, or producing programs or other activities which relate to the history, culture, or traditions of that ethnic group or groups.

APPLICATIONS

SEC. 904. (a) Any public or private nonprofit agency, institution, or organization desiring assistance under this title shall make application therefor in accordance with the provisions of this title and other applicable law and with regulations of the Commissioner promulgated for the purposes of this title. The Commissioner shall approve an application under this title only if he determines that—

(1) the program for which the application seeks assistance will be operated by the applicant and that the applicant will carry out such program in accordance with this title;

(2) such program will involve the activities described in section 903; and

(3) such program has been planned, and will be carried out, in consultation with an advisory council which is representative of the ethnic group or groups with which the program is concerned and which is appointed in a manner prescribed by regulation.

(b) In approving applications under this title, the Commissioner shall insure that there is cooperation and coordination of efforts among the programs assisted under this title, including the exchange of materials and information and joint programs where appropriate.

ADMINISTRATIVE PROVISIONS

SEC. 905. (a) In carrying out this title, the Commissioner shall make arrangements which will utilize (1) the research facilities and personnel of institutions of higher education, (2) the special knowledge of ethnic groups in local communities and of foreign students pursuing their education in this country, (3) the expertise of teachers in elementary and secondary schools and institutions of higher education, and (4) the talents and experience of any other groups such as foundations, civic groups, and fraternal organizations which would further the goals of the programs.

(b) Funds appropriated to carry out this title may be used to cover all or part of the cost of establishing and carrying out the programs, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purpose of carrying out the purposes of this title. Such funds may also be used to provide stipends (in such amounts as may be determined in accordance with regulations of the Commissioner) to individuals receiving training as part of such programs, including allowances for dependents.

NATIONAL ADVISORY COUNCIL

SEC. 906. (a) There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appointed by the Secretary who shall be appointed, serve, and be compensated as provided in part D of the General Education Provisions Act.

(b) Such Council shall, with respect to the program authorized by this title, carry out the duties and functions specified in part D of the General Education Provisions Act.

(c) Notwithstanding any other provision of law, the National Advisory Council on Ethnic Heritage Studies established by this section shall continue to exist until October 1, 1982.

APPROPRIATIONS AUTHORIZED

SEC. 907. For the purpose of carrying out this title, there are authorized to be appropriated $15,000,000 for each of the fiscal years ending prior to [July 1, 1978] *October 1, 1982.* Sums appropriated pursuant to this section shall, notwithstanding any other provision of law unless enacted in express limitation of this sentence, remain available for expenditure and obligation until the end of the fiscal year succeeding the fiscal year for which they were appropriated.

"TITLE X—COMMUNITY SCHOOLS

"SHORT TITLE

"SEC. 1001. This title may be cited as the 'Community Schools and Comprehensive Community Education Act of 1978'.

"STATEMENT OF FINDINGS AND POLICY

"SEC. 1002. (a) The Congress finds that—

(1) the school is a primary institution for the delivery of services and may be the best instrument for the coordination of fre-

quently fragmented services including benefits obtained by energy savings and parental involvement in the delivery by such services;

(2) community education promotes a more efficient use of public education facilities through an extension of school buildings and equipment;

(3) as the primary educational institution of the community, the school is most effective when it involves the people of that community in a program to fulfill the educational needs of individuals of the community; and

(4) community schools provide a great potential for the use of needs assessment as a basis for human resources policies.

(b) It is the purpose of this title—

(1) to provide educational, recreational, cultural, and other related community services, in accordance with the needs, interests, and concerns of the community through the expansion of community education programs;

(2) to coordinate the delivery of social services to meet the needs and preferences of the residents of the community served by the school;

(3) to provide for an efficient, energy-conserving use of school facilities; and

(4) to provide for a research and development emphasis in community education which can contribute to an improved formulation of Federal, State, and local policy.

DEFINITION OF COMMUNITY EDUCATION PROGRAM

Sec. 1003. For the purpose of this title, a community education program' means a program in which a public building, including but not limited to, a public elementary or secondary school, or a community or junior college (or a related extension center), is used as a community center operated by a local educational agency in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, health care, cultural, and other related community services for the community that the center serves in accordance with the needs, interests, and concerns of that community.

STATE PROGRAMS FOR COMMUNITY EDUCATION

Sec. 1004. (a) The Commissioner is authorized to make grants to State educational agencies in accordance with the provisions of this title, to pay the Federal share of the cost of planning, establishing, expanding, and operating community education programs.

(b) There are authorized to be appropriated to carry out the provisions of subsection (a) of this section $40,000,000 for the fiscal year 1979, $50,000,000 for the fiscal year 1980, $60,000,000 for the fiscal year 1981, $50,000,000 for the fiscal year 1982, and $40,000,000 for the fiscal year 1983.

ALLOTMENT

Sec. 1005. (a)(1) From the funds appropriated pursuant to section 1004, the Commissioner shall allot not more than 1 per centum among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs.

(2) From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to such remainder as the population of the State bears to the population of all States except that no State shall receive less than $50,000 in any fiscal year. For the purpose of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required for the period such allotment is available, for carrying out the purposes of this title shall be available for reallotment from time to time on such date during such period as the Commissioner may fix, to other States in proportion to the original allotment to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates will be needed in such State and will be used for such period for carrying out applications approved under this title, and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

USE OF COMMUNITY EDUCATION PROGRAMS FOR NON-FEDERAL CONTRIBUTION IN CERTAIN FEDERAL PROGRAMS

SEC 1006. (a) Notwithstanding any other provision of law any State or local public agency may use the fair value of any community service program assisted under this title as part or all of the non-Federal contribution required under any program set forth in subsection (b) of this section, if—

(1) a portion of any program set forth in subsection (b) is implemented in any building conducting a community education program assisted under this title, and

(2) there is a necessary relationship between such portion of the program set forth in subsection (b) and any element of the community education program assisted under this title.

(b) Programs to which subsection (a) applies are—

(1) the Public Health Service Act,

(2) the Headstart-Follow Through Act,

(3) title XX of the Social Security Act relating to child care and day care services,

(4) the Comprehensive Employment and Training Act of 1973, especially the youth employment demonstration programs authorized under that Act,

(5) the Older Americans Act of 1965,

(6) the Vocational Education Act of 1963,

(7) the Adult Education Act,

(8) title I and title X of the Higher Education Act of 1965, relating to community services and continuing education programs and community college programs,

(9) titles I through IV and VI through IX of the Economic Opportunity Act of 1964 (also known as the Community Services Act of 1974),

(10) the Legal Services Corporation Act,

(11) Safe Streets and Omnibus Crime Control Act of 1968,

(12) science education programs assisted under the National Science Foundation Act of 1950,

(13) the Rehabilitation Act of 1973, and

(14) such other community service programs as the Assistant Secretary deems appropriate.

USES OF FUNDS

SEC. 1007. Payments made under this title to any State educational agency and to any local educational agency, either directly by the Commissioner under section 1009 or in accordance with a State plan approved under section 1008, may be used by such State and local educational agencies for the Federal share of the cost of planning, establishing, expanding, and operating community education programs including—

(1) educational, cultural, recreational, health care, and other related community services whether or not in the form of formal courses,

(2) activities making the school or other public facility and equipment available for use by individuals and groups in the community,

(3) preventive health, dental care, and nutrition,

(4) special programs for particular target groups such as older persons,

(5) services designed to eliminate the high incidence of suspension, expulsion, and other disciplinary action involving chronically maladjusted students,

(6) services for students who withdraw from school before completing secondary school requirements regardless of age or time of withdrawal,

(7) services for mentally or physically handicapped individuals or other health impaired individuals,

(8) rehabilitation purposes for juvenile and adult offenders, and

(9) parent education for care, development, and education of handicapped children.

STATE PLAN

SEC. 1008. (a) Any State desiring to participate in the program authorized by this title shall submit through its State educational agency to the Commissioner a plan, in such detail as the Commissioner deems necessary. Each such plan shall provide satisfactory assurance—

(1) that payments made under this title will be used for community education programs described in section 1007, and to the extent practicable such payments will be used to expand community education programs of the schools of local educational agencies within the State;

(2) provide, after consultation with the appropriate State agencies, for a ten-year plan for the coordination of education programs with all relevant community services;

(3) provide that 80 per centum of the amounts received by the State from its allotment will be distributed among local educational agencies within the State with due regard for such factors as the density or sparsity of the population to be served by the

community education program of the local educational agency, the need for assistance and current and historical rates of youth and adult unemployment;

(4) that community education programs assisted under this title—

(A) will serve the school attendance area of the appropriate local educational agency except where special circumstances warrant serving a smaller or larger community,

(B) will include where appropriate satellite and mobile facilities for the provision of community education program services,

(C) will to the extent feasible serve all age groups within the community including preschool children, children and youth in school, out of school youths, adults, and senior citizens as well as groups in the community with special needs for community education program services such as individuals with limited speaking ability, mentally and physically handicapped individuals, and other health impaired individuals;

(5) that the community education program will include procedures for the systematic and effective identification and documentation of the needs and concerns of the community;

(6) that the community education program will provide for the identification and use, to the fullest extent possible, of educational, cultural, recreational, health care, and other resources outside the school or other public facility (including the services of volunteers) and will contain provisions to encourage the use of cooperative arrangements with public and private agencies to make the maximum use of existing resources within the community;

(7) the community education program will contain provisions to assure the active involvement on an advisory basis of institutions' groups and individuals in the community to be served by the program;

(8) provide assurances that the State educational agency will provide procedures for submitting applications by local educational agencies within that State for payments under this title, for approval by the State educational agency, including appropriate procedures to assure that the State educational agency concerned will not disapprove an application of any local educational agency without notice and opportunity for a hearing;

(9) that the State will pay from non-Federal sources the remaining cost of carrying out the State plan;

(10) the State educational agency from the funds received by it under section 1004 for any fiscal year will reserve 20 per centum of such funds for the administration of the State plan, technical assistance to local educational agencies, the conduct of conferees and dissemination activities among local educational agencies within the State and other community service agencies, the coordination between local educational agencies, community colleges, and other institutions of higher education in the State with respect to the coordination of the delivery of social services with partic-

ular emphasis on the application of section 1006 and the training and conversion activities authorized by section 1012 of this title; and

(11) that effective procedures will be adopted to evaluate the effectiveness of the community education programs assisted under this title (including where possible payments made directly under section 1009.)

(b) The Commissioner shall approve a State plan which meets the requirements of subsection (a), and he shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State educational agency.

GRANTS TO LOCAL EDUCATIONAL AGENCIES

SEC. 1009. (a) The Commissioner is authorized to make grants to local educational agencies and to community colleges for the Federal share of the cost of planning, establishing, expanding, and operating community education programs including any use described in section 1007, whenever the Commissioner determines that, pursuant to an application filed under subsection (b), the local educational agency is not receiving assistance under a State plan approved under section 1008, and the community education program for which application is made under subsection (b) holds reasonable promise of success and is in substantial compliance with the requirements of the State plan as set forth in section 1008(a) (4), (5), (6), (7), and (9).

(b) No grant may be made under this section unless an application is made to the Commissioner at such time, in such manner and containing or accompanied by such information, as the Commissioner may reasonably require.

(c) There are authorized to be appropriated $20,000,000 for the fiscal year 1979, $25,000,000 for the fiscal year 1980, $30,000,000 for the fiscal year 1981, $25,000,000 for the fiscal year 1982, and $20,000,000 for the fiscal year 1983 to carry out the provisions of this section.

GRANTS TO NONPROFIT ORGANIZATIONS FOR DELIVERY OF COMMUNITY SERVICES THROUGH COMMUNITY EDUCATION

SEC. 1010. (a) The Commissioner is authorized to make grants to nonprofit private organizations to encourage the use of school facilities and other facilities eligible to receive assistance under this title for the efficient and coordinated delivery of community services set forth in section 1006(b). Each such application shall contain provisions to assure that the nonprofit private organization making application has entered or will enter into contractual arrangements with the local educational agency concerned.

(b) No grant may be made under the provisions of this section unless an application is made to the Commissioner at such time, in such manner and containing or accompanied by such information, as the Commissioner may reasonably require.

(c) There are authorized to be appropriated $5,000,000 for the fiscal year 1979, $7,000,000 for the fiscal year 1980, $10,000,000 for the fiscal year 1981, $7,000,000 for the fiscal year 1982, and $5,000,000 for the fiscal year 1983 to carry out the provisions of this section.

NATIONAL LEADERSHIP AND PLANNING

SEC. 1011. (a) The Assistant Secretary shall undertake certain national leadership and planning activities in order to assist the purposes of this title. Such activities include but are not limited to—

(1) national leadership including publications, convening of national conferences and other dissemination activities to provide information of successful community education programs and activities;

(2) development in consultation with appropriate other Federal officials of a proposed ten-year program plan for Federal efforts to assist community education. This plan shall be submitted to the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives together with such supporting documentation as is necessary not later than January 20, 1980;

(3) utilization of the mission budget required under section 201 of the Budget and Accounting Act, 1921, as the foundation of the ten-year Federal plan required in subparagraph (2) of this section indexed according to all relevant research and evaluation conducted with Federal funds.

The mission definitions underpinning this activity shall be submitted to the Committees on Human Resources and Appropriations of the Senate and the Committees on Education and Labor and Appropriations of the House of Representatives no later than January 20, 1979.

(b) There are authorized to be appropriated for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983, $5,000,000 to carry out the provisions of this section.

TRAINING OF COMMUNITY EDUCATION PERSONNEL; CONVERSION OF DISPLACED AND UNEMPLOYED TEACHERS

SEC. 1012. (a)(1) The Commissioner is authorized to make grants to institutions of higher education for the purpose of assisting full-time and part-time training for personnel who are engaged in or who intend to engage in community education programs.

(2) In awarding grants under this section the Commissioner shall give priority, in the order specified, to—

(A) retraining teachers who have been laid off due to the financial crisis of the local educational agency in which they were employed,

(B) training teachers who have been unable to find jobs teaching although they are recently graduated from institutions of higher education with a degree and the intention to teach elementary or secondary education,

(C) training personnel who intend to undertake to serve as a teacher's aide in community education programs who have a bachelor's degree from an institution of higher education, and

(D) training individuals who intend to serve as a teacher's aide and who do not have such a degree.

(b)(1) No grant may be made under the provisions of this section unless an application is made at such time, in such manner, and containing or accompanied by such information as the Commissioner may reasonably require.

(2) No grant may be entered into under the provisions of this section unless a provision is included in the application to require the institution of higher education to consult with appropriate State and local educational agencies.

(c) There are authorized to be appropriated $5,000,000 for the fiscal year 1979, $10,000,000 for the fiscal year 1980, $15,000,000 for the fiscal year 1981, $10,000,000, for the fiscal year 1982, and $5,000,000 for the fiscal year 1983 to carry out the provisions of this section.

RESEARCH

SEC. 1013. (a) In conjunction with the planning activities required of the Assistant Secretary for Education under section 1011 of this title, the Director of the National Institute of Education shall carry out a program of research on community education programs, from sums available under subsection (b) of this section. Such research shall include program impact with respect to individuals and communities, the importance of parental involvement, school vandalism and violence, and the effect of non-Federal funds contributed under provisions of section 1015 of this title. The Director shall submit to the Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives a research plan summarizing activities the Institute will carry out under this section. Such research plan will be submitted not later than one year after the enactment of this section. A final report on research activities undertaken under this section shall be submitted not later than January 1, 1982.

(b) There are authorized to be appropriated $1,000,000 for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of this section.

ADMINISTRATION

SEC. 1014. (a) The Commissioner shall establish or designate a clearinghouse to gather and disseminate information received from community education programs, including but not limited to, information regarding new programs, methods to encourage community participation, methods of formulating and conducting needs assessments, and the ways of coordinating community education programs with other community services, with particular emphasis upon the coordination of delivery of community services described in section 1006(b). The Commissioner is authorized to contract with public and private agencies organizations to establish and operate the clearinghouse.

(b)(1) There is established, subject to part D of the General Education Provisions Act, in the Office of the Commissioner, a Community Education Advisory Council (referred to in this section as the Advisory Council) to be composed of eleven members. The members of the Advisory Council shall be appointed by the Secretary.

(2) A substantial number of the members of the Advisory Council shall be individuals experienced in the operation of community education programs and the training of such individuals. The Council

shall include participants and consumers of community education programs.

(3) Appointments to the Advisory Council shall be completed within three months after enactment of this title. Individuals serving in any predecessor Community Education Advisory Council may be appointed under this subsection.

(4) The Commissioner shall make available to the Advisory Council such staff, information, and other assistance as it may require to carry out its activities.

(5) The Advisory Council shall advise the Commissioner on policy matters relating to the interests of community schools and the community education program authorized by this title.

(6) The Advisory Council shall advise the National Institute of Education with respect to the research of community education programs, and shall advise the Office of Education with respect to the evaluation of such programs. The Council shall present to Congress a complete and thorough assessment of the programs and operation of this section for each fiscal year.

(c)(1) There are authorized to be appropriated for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983, $500,000, to carry out the provisions of subsection (a) of this section.

(2) There are authorized to be appropriated for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, $500,000 to carry out the provisions of subsection (b) of this section.

(3) There are authorized to be appropriated for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, such sums, but not to exceed $1,000,000 in any fiscal year, as are necessary to provide for the administration of this title.

FEDERAL SHARE

SEC. 1015. (a) The Federal share of the cost of the State plan approved under section 1007 shall be 80 per centum for the fiscal year 1979, 70 percentum for the fiscal year 1980, 50 per centum for the fiscal year 1981, 30 per centum for the fiscal year 1982, and 20 per centum for the fiscal year 1983.

(b) The Federal share of the cost of applications of local educational agencies approved under section 1008 shall be 90 per centum for the fiscal year 1979, 90 per centum for the fiscal year 1980, 80 per centum for the fiscal year 1981 and each of the two succeeding fiscal years.

(c) The Federal share of the cost of grants to nonprofit organizations under section 1009 shall be 90 per centum for the fiscal year 1979, 90 per centum for the fiscal year 1980, and 80 per centum for the fiscal year 1981 and for each of the two succeeding years.

TITLE XI—WOMEN'S EDUCATIONAL EQUITY

SHORT TITLE; PURPOSE

SEC. 1101. (a) This title may be cited as the 'Women's Educational Equity Act of 1978'.

(b)(1) The Congress finds and declares that educational programs in the United States, as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society.

(2) It is the purpose of this title to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Education Amendments of 1972.

(c) As used in this title, the term 'Council' means the National Advisory Council on Women's Educational Programs.

GRANT AND CONTRACT AUTHORITY

SEC. 1102. (a) The Commissioner is authorized to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions, including student and community groups, and individuals, for activities designed to achieve the purpose of this part at all levels of educations, including preschool, elementary and secondary education, higher education, and adult education. The activities may include—

(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

(A) the development and evaluation of curricula, textbooks, and other educational materials related to educational equity;

(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

(C) research and development activities designed to advance educational equity;

(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to insure educational equity;

(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational adminministration; and

(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed two years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972 and other special activities designed to achieve the purposes of this part.

Not less than 75 per centum of funds used to support activities covered by paragraph (2) shall be used for awards to local educational agencies.

(b) For each fiscal year, the Commissioner shall use $15,000,000 from the funds available under this title to support activities described

in paragraph (1) of subsection (a). Any funds in excess of $15,000,000 available under this part shall be used to support activities described in paragraph (2) of subsection (a).

APPLICATION; PARTICIPATION

Sec. 1103. (a) A grant may be made and a contract may be entered into under this title only upon application to the Commissioner, at such time, in such form, and containing or accompanied by such information as the Commissioner may prescribe. Each such application shall—

(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

(2) describe a program for carrying out one or more of the purposes set forth in section 1102(a) which holds promise of making a substantial contribution toward attaining such purposes; and

(3) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application;

(b) Nothing in this title shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

SMALL GRANTS

Sec. 1104. In addition to the authority of the Commissioner under section 1102, the Commissioner shall carry out a program of small grants (as part of the grant program administered under section 1102 (a)(1)), not to exceed $25,000, each, in order to support innovative approaches to achieving the purposes of this part; and for the purpose the Commissioner is authorized to make grants to public and private nonprofit agencies and to individuals.

CRITERIA AND PRIORITIES

Sec. 1105. The Commissioner shall establish criteria and priorities for awards under this part to insure that available funds are used for those purposes that most effectively will achieve the purposes of this part. Those criteria and priorities shall be promulgated in accordance with section 431 of the General Education Provisions Act.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Sec. 1106. (a) There is established in the Office of Education a National Advisory Council on Women's Educational Programs. The Council shall be composed of—

(1) seventeen individuals, some of whom shall be students, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals, broadly representative of the general public who, by virtue of their knowledge or experience, are versed in the role and status of women in American society;

(2) the staff Director of the Civil Rights Commission;

(3) the Director of the Women's Bureau of the Department of Labor; and

(4) the Director of the Women's Action Program of the Department of Health, Education, and Welfare.

The Council shall elect its own Chairperson from among the members indicated in paragraph (1).

(b) The term of office of each member of the Council appointed under paragraph (1) of subsection (a) shall be three years, except that—

(1) the members first appointed under such clause shall serve as designated by the President, six for a term of one year, five for a term of two years, and six for a term of three years; and

(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

(c) The Council shall—

(1) advise the Secretary, Assistant Secretary, and the Commissioner on matters relating to equal educational opportunities for women and policy matters relating to the administration of this part;

(2) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to this part, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(3) recommend criteria for the establishment of program priorities;

(4) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

(5) disseminate information concerning the activities of the Council under this part.

(d) The provisions of part D of the General Education Provisions Act shall apply with respect to the Council established under this subsection.

REPORT

SEC. 1107. The Commissioner is directed, at the end of each fiscal year, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this part, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this part. After receiving the report from the Commissioner, the Council shall evaluate the program and projects assisted under this part and include such evaluation in its annual report.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1108. For the purpose of carrying out this title there are authorized to be appropriated $80,000,000 for the fiscal year 1980, and each of the three succeeding fiscal years.

TITLE XII—NON-PUBLIC EDUCATIONAL ASSISTANCE

SHORT TITLE; PURPOSE

Sec. 1201. (a) This title may be cited as the "Non-public Educational Assistance Act of 1978".

(b) The Congress finds and declares that—

(1) non-public schools play a vital role in the educational system of this country;

(2) such schools have contributed significantly to the quality of education in America;

(3) a strong and diversified American system of education requires the continued viability of these nonpublic schools; and

(4) a Federal program of grants and loans is needed to assist these schools.

GRANTS TO NON-PUBLIC SCHOOLS

Sec. 1202 (a) The Commissioner is authorized to make grants to non-public elementary and secondary schools for the purposes set forth in subsection (b).

(b) Grants made under subsection (a) may be used only for—

(1) secular textbooks, to non-public elementary and secondary school students which are approved by the State educational agency for use in public elementary and secondary schools in the State;

(2) standardized tests and scoring services for the use of non-public elementary and secondary school students which are in use in the public schools of the State;

(3) providing speech and hearing diagnostic services to pupils attending non-public schools, if such services are provided in the non-public school attended by the pupil receiving the services;

(4) providing diagnostic psychological service to pupils attending non-public schools if such services are provided in the non-public school receiving the services;

(5) providing guidance and counseling (A) to advise students of courses of study best suited to their ability, aptitude, and skills, (B) to advise students in their decisions as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, and (C) to encourage students with outstanding aptitudes and ability to complete a course of study necessary for admission to institutions of higher education;

(6) providing secular, neutral, and nonideological instructional materials and instructional equipment, which are incapable of diversion to religious use, and which are incapable of being affixed to the non-public school facility and which are capable of portability from the school to the home by the students of the non-public school; and

(7) providing necessary transportation to and from non-public elementary and secondary schools to non-public elementary and secondary school children.

(c)(1) Textbooks described in clause (1) of subsection (b), including book substitutes, shall be limited to books, reusable workbooks, or

manuals, whether bound or in looseleaf form, intended for use as a principal source of study material for a class or a group of students, a copy of which shall be available for the individual use of each pupil in such class or group.

(2) Tests and services described in clause (2) of subsection (b) must be used to measure the progress of non-public school students in secular subjects and to identify those non-public school students who are gifted and talented.

OFFICE OF NON-PUBLIC EDUCATION

SEC. 1203. (a) There shall be, in the Office of Education, an Office of Non-public Education, to carry out the provisions of this title and to insure the maximum potential participation of non-public schools in all other Federal educational programs.

(b) The Office shall be headed by the Deputy Commissioner for Non-public Education, who shall be appointed by the Commissioner.

APPLICATION

SEC. 1204. Financial assistance may be made under this title only upon an application to the Commissioner. Each such application shall contain assurances that any funds received by the non-public elementary or secondary school under this title shall be used only to carry out the purposes of this title.

EXPEDITED REVIEW OF CONSTITUTIONALITY; SEVERABILITY

SEC. 1205. (a) In any action brought in a district court of the United States, including an action for declaratory judgment or injunctive relief, concerning the constitutionality of any provision of this title, the district court shall certify immediately all questions of constitutionality of such provision to the United States Court of Appeals for the circuit involved, which shall hear the matter sitting en banc.

(b) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the Court of Appeals.

(c) It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (a).

(d) If any provision of this title, or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of such section and the application of such provisions to other persons or circumstances, shall not be affected.

DEFINITIONS

SEC. 1206. For the purpose of this title—

(1) the term 'non-public elementary school' means an elementary school as defined in section 801(c) of this Act which is privately operated but only if it is—

(A) accredited or approved under State law (or, in the case of a school in a State which has no procedure for the

accreditation or approval of privately operated schools, which meets the requirements of State law relating to compulsory school attendance), and

(B) exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 as an organization described in section 501(c)(3) of such Code; and

(2) the term 'non-public secondary school' means any secondary school as defined in section 801(h) of this Act and which is privately operated but only if it is—

(A) accredited or approved under State law (or, in the case of a school in a State which has no procedure for the accreditation or approval of privately operated schools, which meets the requirements of State law relating to compulsory school attendance), and

(B) exempt from taxation under section 501(a) of the Internal Revenue Code of 1954 as an organization described in section 501(c)(3) of such Code.

AUTHORIZATION OF APPROPRIATIONS

Sec. 1207. There are authorized to be appropriated $500,000,000 for fiscal year 1979 and for such succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of section 1202 of this Act.

TITLE VII—EMERGENCY SCHOOL AID

SHORT TITLE

Sec. 701. This title may be cited as the "Emergency School Aid Act." Act."

Enacted June 23, 1972, P.L. 92-318, sec. 701, 86 Stat. 354.

FINDINGS AND PURPOSES

Sec. 702. (a) The Congress finds that the process of eliminating or preventing minority group isolation and improving the quality of education for all children often involves the expenditure of additional funds to which local educational agencies do not have access.

(b) The purpose of this title is to provide financial assistance—

(1) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

(2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and

(3) to aid school children in overcoming the educational disadvantages of minority group isolation.

POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW

Sec. 703. (a) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

(b) It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

APPROPRIATIONS

SEC. 704. (a) The Assistant Secretary shall, in accordance with the provisions of this title, carry out a program designed to achieve the purpose set forth in section 702(b). There are authorized to be appropriated for the purpose of carrying out this title, $1,000,000,000 for the fiscal year ending June 30, 1973, and $1,000,000,000 for the period ending June 30, 1976, and $1,000,000,000 for the period beginning July 1, 1976, and ending September 30, 1979, except that of the sums available under section 708(a), the Assistant Secretary is limited in the use of such sums to an amount, not more than 5 percent, which may be used for providing compensatory services to students who had previously received such services funded in whole or in part under title I of the Elementary and Secondary Education Act of 1965, but who are no longer receiving such services as a result of attendance area changes under a desegregation order or plan issued after August 21, 1974. Funds so appropriated shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated.

(b) From the sums appropriated pursuant to subsection (a) for any fiscal year, the Assistant Secretary shall reserve an amount equal to 13 per centum thereof for the purposes of sections 708 (a) and (c), 711, and 713, of which—

(A) not less than an amount equal to 4 per centum of such sums shall be for the purposes of section 708(c); and

(B) not less than an amount equal to 3 per centum of such sums shall be for the purposes of section 711.

(c) There are authorized to be appropriated, in addition to the sums authorized under subsection (a) of this section, $50,000,000 for fiscal year 1977, and $100,000,000 **[**for fiscal year 1978**]** *each for the fiscal year 1978 and for the fiscal year 1979* for the purpose of carrying out section 708(a), relating to special programs and projects. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.

(d) There are authorized to be appropriated in addition to the sums authorized under subsection (a) of this section $25,000,000 for fiscal year 1977 and $50,000,000 **[**for fiscal year 1978**]** *for the fiscal year 1978 and for the fiscal year 1979*, for the purpose of carrying out activities specified in paragraphs (13) through (15) of section 707(a) of this Act. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.

APPORTIONMENT AMONG STATES

SEC. 705. (a)(1) From the sums appropriated pursuant to section 704(a) which are not reserved under section 704(b) for any fiscal year, the Assistant Secretary shall apportion to each State for grants and contracts within that State $75,000 plus an amount which bears the same ratio to such sums as to the number of minority group children aged 5–17, inclusive, in that State bears to the number of such children in all States except that the amount apportioned to any State shall not be less than $100,000. The number of such children in each State and in all of the States shall be determined by the Assistant Secretary on the basis of the most recent available data satisfactory to him.

(2) The Assistant Secretary shall, in accordance with criteria established by regulation, reserve not in excess of 15 per centum of the sums appropriated pursuant to subsection 704(a) for grants to, and contracts with, local, educational agencies in each State pursuant to section 706(b) to be apportioned to each State in accordance with paragraph (1) of this subsection.

(3) The Assistance Secretary shall reserve 8 per centum of the sums appropriated pursuant to subsection 704(a) for the purpose of section 708(b) to be apportioned to each State in accordance with paragraph (1) of this subsection.

(b)(1) The amount by which any apportionment to a State for a fiscal year under subsection (a) exceeds the amount which the Assistant Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reapportionment to other States in proportion to the original apportionments to such States under subsection (a) for that year, but with such proportionate amount for any such State being reduced to the extent it exceeds the sum the Assistant Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amounts reapportioned to a State under this subsection during a fiscal year shall be deemed part of its apportionment under subsection (a) for such year.

(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this title, the Assistant Secretary shall not fix a date for reapportionment, pursuant to this subsection, of any portion of any apportionment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any apportionment to a State for a fiscal year shall be available for reapportionment pursuant to this subsection unless the Assistant Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such apportionment has not been reserved (but which would necessitate use of tat portion) are applications which do not meet the requirements of this title, as set forth in sections 706, 707, and 710, or which set forth programs or projects of such insufficient promise for achieving the purpose of this title stated in section 702(b) that their approval is not warranted.

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PUBLIC LAW 874, 81ST CONGRESS

TITLE I—FINANCIAL ASSISTANCE FOR LOCAL EDUCATION AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

DECLARATION OF POLICY

SECTION 1. In recognition of the responsibility of the United States for the impact which certain Federal activities have on the local educational agencies in the areas in which such activities are carried on, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following sections of this title) for those local educational agencies upon which the United States has placed financial burdens by reason of the fact that—

(1) the revenues available to such agencies from local sources have been reduced as the result of the acquisition of real property by the United States; or

(2) such agencies provide education for children residing on Federal property; or

(3) such agencies provide education for children whose parents are employed on Federal property; or

(4) there has been a sudden and substantial increase in school attendance as the result of Federal activities.

FEDERAL AQUISITION OF REAL PROPERTY

SEC. 2. (a) Where the Commissioner, after consultation with any local educational agency and with the appropriate State educational agency, determines for any fiscal year ending prior to October 1, [1978] *1983*—

(1) that the United States owns Federal property in the school district of such local educational agency, and that such property (A) has been acquired by the United States since 1938, (B) was not acquired by exchange for other Federal property in the school district which the United States owned before 1939, and (C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 per centum or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired); and

(2) that such acquisition has placed a substantial and continuing financial burden on such agency; and

(3) that such agency is not being substantially compensated for the loss in revenue resulting from such acquisition by increases in revenue accruing to the agency from the carrying on of Federal activties with respect to the property so acquired,

then the local educational agency shall be entitled to receive for such fiscal year such amount as, in the judgment of the Commissioner, is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property. Such amount shall not exceed the amount which, in the judgment of the Commissioner, such agency would have derived in such year, and would have had available for current expenditures, from the property acquired by the United States (such amount to be determined without regard to any improvements or other changes made in or on such property since such acquisition).

(b) For the purposes of this section any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933, as amended, shall not be regarded as Federal property.

(c) Where the school district of any local educational agency shall have been formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at the time it files application under section 5) for any fiscal year to have (1) the eligibility of such local educational agency, and (2) the amount which such agency shall be entitled to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school district as the agency shall designate in such election.

CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY

Children of Persons Who Reside and Work on Federal Property

SEC. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, resided on Federal property and—

(1) did so with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency; or

(2) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

In making a determination under clause (2) of the preceding sentence with respect to a local educational agency for any fiscal year, the Commissioner shall include the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such year, and who, while in attendance at such schools, resided on Indian lands, as described in clause (A) of section 403(1).

Children of Persons Who Reside or Work on Federal Property

(b) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to October 1, **[**1978**]** *1983*, the Commissioner shall, in addition to any determination made with respect to such agency under subsection (a), determine the number of children (other than children with respect to whom a determination is made for such fiscal year under subsection (a)) who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year and who, while in attendance at such schools, either—

(1) resided on Federal property, or

(2) resided with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, *or in whole or in part in the school district of such agency if the school district is located in more than one county*, or (B) if not in such county *or district*, in whole or in part in the same State as the school district of such agency, or

(3) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

For such purpose, with respect to a local educational agency, in the case of any fiscal year ending prior to October 1, 1978, the Commissioner shall also determine the number of children (other than children to whom subsection (a) or the preceding sentence applies) who were in average daily attendance at the schools of such agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the beginning of the fiscal year for which the determination is made, a refugee who meets the requirements of clauses (A) and (B) of section 2(b)(3) of the Migration and Refugee Assistance Act of 1962, except that the Commissioner shall not include in his determination under this sentence for any fiscal year any child with respect to whose education a payment was made under section 2(b)(4) of such Act.

Eligibility for Payments

(c)(1) Except as is provided in paragraph (2), no local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under subsection (a) and subsection (b), unless the number of children so determined with respect to such agency amounts to—

(A) at least four hundred such children; or

(B) a number of such children which equals at least 3 per centum of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education;

whichever is the lesser.

(2)(A)(i) Clause (B) of paragraph (1) shall not operate to make any local educational agency eligible for a payment under this section for any fiscal year unless the number of children with respect to whom determination was made under subsections (a) and (b) respecting such agency for that fiscal year is at least ten.

(ii) If a local educational agency is eligible for a payment for any fiscal year by the operation of clause (B) of paragraph (1), it shall continue to be so eligible for the two succeeding fiscal years even if such agency fails to meet the requirement of such clause (B) during such succeeding fiscal years, except that the number of children determined for the second such succeeding fiscal year with respect to such agency for the purpose of any clause in paragraph (1) of subsection (d) shall not exceed 50 per centum of the number of children determined with respect to such agency for the purpose of that clause for the last fiscal year during which such agency was so eligible.

(iii) If the Commissioner determines with respect to any local educational agency for any fiscal year that—

(I) such agency does not meet the requirement of clause (B) of paragraph (1); and

(II) the application of such requirement, because of exceptional circumstances, would defeat the purposes of this title;

the Commissioner is authorized to waive such requirement with respect to such agency.

(B) No local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under the second sentence of subsection (b) unless the number of children so determined constitutes at least 20 per centum of the total number of children who were in average daily attendance at the schools of such agency and for whom such agency, during such fiscal year, provided free public education.

Amount of Payments

(d)(1) Except as is provided in paragraph (2), the amount to which a local educational agency shall be entitled under this section for any fiscal year shall be—

(A) in the case of any local educational agency with respect to which the number of children determined for such fiscal year under subsection (a) amounts to at least 25 per centum of the total number of children who were to average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the sum of the products obtained with respect to such agency under clauses (B)(iii), (B)(iv), (B)(v); and

(B) in any other case, an amount equal to the sum of—

(i) the product obtained by multiplying 100 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2) of subsection (a),

(ii) the product obtained by multiplying 90 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (1) of subsection (a),

(iii) the product obtained by multiplying 50 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (3) of subsection (b).

(iv) the product obtained by multiplying 45 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clauses (1) and (2)(A) of subsection (b), and

(v) the product obtained by multiplying 40 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2)(B) of subsection (b).

(2) [(A) Not later than December 1 during each fiscal year beginning after June 30, 1977, the Commissioner shall, except as is provided in clause (iii) in the third sentence of this subparagraph, determine the total number of children with respect to whom determinations are made under subsection (b) for all local educational agencies making application for payments under this section which meet the eligibility requirements set forth in subsection (c). The Commissioner shall determine the percentage which such number constitutes of the total number of children who were in average daily attendance at the schools of such agencies during such fiscal year and for whom such agencies provided free public education. In calculating the products under clauses (B)(iii), (B)(iv), and (B)(v), of paragraph (1), with respect to any local educational agency for any fiscal year, the Commissioner shall reduce the number of children with respect to whom a determination is made under subsection (b) by a number equal to one-half of the number which the percentage determined under the preceding sentence constitutes of the total number of children with respect to whom such determination is made and who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, except that—

[(i) such percentage shall not exceed 4 per centum;

[(ii) the number reduced shall not exceed three hundred; and

[(iii) this subparagraph shall not apply to any local educational agency (I) with respect to which the number of children determined under subsection (b) for any fiscal year amounts to at least 10 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, or (II) during any fiscal year in which such agency receives more than 25 per centum of the funds for its current expenditures from payments under this section.

In determining the total number of children who were in average daily attendance at the schools of an agency during any fiscal year under clause (iii)(I) in the preceding sentence, the number of children in such schools with respect to whom a determination is made under subsection (a) for such year shall not be considered.]

(B) If the Commissioner determines that—

(i) the amount computed under paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, is less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which are generally comparable to the school district of such agency;

(ii) such agency is making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

(iii) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education were, during such fiscal year, determined under either subsection (a) or [clause (1) of] subsection (b), or both; and

(iv) the eligibility of such agency under State law for State aid with respect to free public education of children residing on Federal property, and the amount of such aid, are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State;

[the Commissioner is authorized, to] *the Commissioner shall* increase the amount computed under paragraph (1) with respect to such agency for such fiscal year to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts. The Commissioner shall not, under, the preceding sentence, increase the amount computed under paragraph (1) with respect to any local educational agency for any fiscal year to an amount which exceeds the product of—

(I) the amount the Commissioner determines to be the Cost per pupil of providing a level of education maintained in such comparable school districts during such fiscal year,

multiplied by—

(II) the number of children determined with respect to such agency for such year under either subsection (a) or [clause (1) of] subsection (b), or both,

minus the amount of State aid which the Commissioner determines to be available with respect to such children for the fiscal year for which the computation is being made.

(C)(i) The amount of the entitlement of any local educational agency under this section for any fiscal year with respect to handicapped children and children with specific learning disabilities for whom a determination is made under subsection (a)(2) or (b)(3) and for whom such local educational agency is providing a program designed to meet the special educational and related needs of such children shall be the amount determined under paragraph (1) with respect to such children for such fiscal year [multiplied by 150 per centum] *plus the cost of providing such children with a free appropriate public education in accordance with part B of the Education of the Handicapped Act in such agency minus the contribution to such cost made by funds received under such Act.*

(ii) For the purposes of division (i), programs designed to meet the special educational and related needs of such children shall be consistent with criteria established under division (iii).

(iii) The Commisioner shall by regulation establish criteria for assuring that programs (including preschool programs) provided by local educational agencies for children with respect to whom this subparagraph applies are of sufficient size, scope, and quality (taking into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs, and in the implementation of such regulations the Commissioner shall consult with persons in charge of special education programs for handicapped children in the educational agency of the State in which such local educational agency is located.

(iv) For the purpose of this subparagraph the term "handicapped children" has the same meaning as specified in section 602(1) of the Education of the Handicapped Act and the term "children with specific learning disabilities" has the same meaning as specified in section 602(15) of such Act.

(3)(A) Except as is provided in subparagraph (B), in order to compute the local contribution rate for a local educational agency for any fiscal year, the Commissioner, after consulting with the State educational agency of the State in which the local educational agency is located and with the local educational agency, shall determine which school districts within such State are generally comparable to the school district of the local educational agency for which the computation is being made. The local contribution rate for such agency shall be the quotient of—

(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, which the local educational agencies of such comparable school districts derived from local sources,

divided by—

(ii) the aggregate number of children in average daily attendance for which such agency provided free public education during such second preceding fiscal year.

(B)(i) The local contribution rate for a local educational agency in any State shall not be less than—

(I) 50 per centum of the average per pupil expenditure in such State, or

(II) 50 per centum of such expenditures in all the States,

whichever is greater, except that clause (II) shall not operate in such a manner as to make the local contribution rate for any local educational agency in any State exceed an amount equal to the average per pupil expenditure in such State.

(ii) If the current expenditures in those school districts which the Commissioner has determined to be generally comparable to the school district of the local educational agency for which a computation is made under subparagraph (A) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of such agency, a level of education equivalent to that maintained in such other school districts, the Commissioner is authorized to increase the local contribution rate for such agency by such an amount which he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors.

(iii) The local contribution rate for any local educational agency in—

(I) Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or

(II) any State in which a substantial proportion of the land is in unorganized territory, or

(III) any State in which there is only one local education agency.

shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will best achieve the purposes of this section and which are consistent with the policies and principles provided in this paragraph for determining local contribution rates in States where it is possible to determine generally comparable school districts.

(C) For the purposes of this paragraph—

(i) the term "State" does not include Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands; and

(ii) the "average per pupil expenditure" in a State shall be (I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made of all local educational agencies in the State, divided by (II) the aggregate number of children in average daily attendance for whom such agencies provide free public education during such second preceding fiscal year.

Adjustments for Decreases in Federal Activities

(e) Whenever the Commissioner determines that—

(1) for any fiscal year, the number of children determined with respect to any local educational agency under subsections (a) and (b) is less than 90 per centum of the number so determined with respect to such agency during the preceding fiscal year;

(2) there has been a decrease or cessation of Federal activities within the State in which such agency is located; and

(3) such decrease or cessation has resulted in a substantial decrease in the number of children determined under subsections (a) and (b) with respect to such agency for such fiscal year;

the amount to which such agency is entitled for such fiscal year and or any of the three succeeding fiscal years shall not be less than 90 per centum of the amount to which such agency was so entitled for the preceding fiscal year. That part of any entitlement of any local educational agency which is in excess of the amount which such entitlement would be without the operation of the preceding sentence shall be deemed to be attributable to determinations of children with respect to such agency under subsection (b)(2)(A).

Determinations on the Basis of Estimates

(f) Determinations with respect to a number of children by the Commissioner under this section for any fiscal year shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE INCREASES HEREAFTER OCCURING

SEC. 4. (a) If the Commissioner determines for any fiscal year ending prior to October 1, [1978] *1983*—

(1) that, as a direct result of activities of the United States (carried on either directly or through a contractor), an increase in the number of children in average daily attendance at the schools of any local educational agency has occurred in such fiscal year, which increase so resulting from activities of the United States is equal to at least 5 per centum of the difference between the number of children in average daily attendance at the schools of such agency during the preceding fiscal year and the number of such children whose attendance during such year resulted from activities of the United States (including children who resided on Federal property or with a parent employed on Federal property);

(2) that such activities of the United States have placed on such agency a substantial and continuing financial burden; and

(3) that such agency is making a reasonable tax effort and is exercising due diligence in availaing itself of State and other financial assistance but is unable to secure sufficient funds to meet the increased educational costs involved,

then such agency shall be entitled to receive for such fiscal year an amount equal to the product of—

(A) the number of children which the Commissioner determines to be the increase, so resulting from activities of the United States, in such year in average daily attendance; and

(B) the amount which the Commissioner determines to be the current expenditures per child necessary to provide free public education to such additional children during such year, minus the amount which the Commissioner determines to be available from State, local, and Federal sources for such purpose (not counting as available for such purpose either payments under this Act or funds from local sources necessary to provide free public education to other children).

For the next fiscal year except where the determination under the preceding sentence has been made with respect to the fiscal year ending June 30, 1968) such agency shall be entitled to receive 50 per centum of such product reduced by the amount of such product which is attributable to children with respect to whom such agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year, but not to exceed for such year the amount which the Commissioner determines to be necessary to enable such agency, with the State, local, and other Federal funds (exclusive of funds available under title II) available to it for such purpose, to provide a level of education equivalent to that maintained in the school district in such State which in his judgment are generally comparable to the school district of such agency. The determinations whether an increase has occurred for purposes of clause (1) hereof and whether such increase meets the 5 per centum requirement contained in such clause, for any fiscal year, shall be made on the basis of estimates by the Commissioner made prior to the close of such year, except that an underestimate made by the Commissioner pursuant to the foregoing provisions of this sentence shall not operate to deprive an agency of its entitlements to any payments under this section to which it would be entitled had the estimate been accurate. The determination under clause (B) shall be made by the Commissioner after considering the current expenditures per child in providing free public education in those school districts in the State which, in the judgment of the Commissioner, are generally comparable to the school district of the local educational agency for which the computation is being made.

INCREASES HERETOFORE OCCURRING

(b) (Subsection 4(b) has been executed.)

COUNTING OF CERTAIN CHILDREN

(c) In determining under subsection (a) whether there has been an increase in attendance in any fiscal year directly resulting from activities of the United States and the number of children with respect to whom payment is to be made for any fiscal year, the Commissioner shall not count—

(A) children with respect to whom a local educational agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year: *Provided*, That the Commissioner shall count for such purposes as an increase directly resulting from activities of the United States, an increase in the number of children who reside on Federal property or reside with a parent employed on Federal property, if the local educational agency files, in accordance with regulations of the Commissioner, its election that such increase be counted for such purposes instead of for the purposes of section 3; and

(B) children whose attendance is attributable to activities of the United States carried on in connection with real property which has been excluded from the definition of Federal property by the last sentence of paragraph (1) of section 403.

ADJUSTMENT FOR CERTAIN DECREASES IN FEDERAL ACTIVITIES

(d) Whenever the Commissioner determines that—

(1) a local educational agency has made preparations to provide during a fiscal year free public education for a certain number of children to whom subsection (a) applies;

(2) such preparations were in his judgment reasonable in the light of the information available to such agency at the time such preparations were made; and

(3) such number has been substantially reduced by reason of a decrease in or cessation of Federal activities or by reason of a failure of any of such activities to occur,

the amount to which such agency is otherwise entitled under this section for such year shall be increased to the amount to which, in the judgment of the Commissioner, such agency would have been entitled but for such decrease in or cessation of Federal activities or the failure of such activities to occur, minus any reduction in current expenditures for such year which the Commissioner determines that such agency has effected, or reasonably should have effected, by reason of such decrease in or cessation of Federal activities or the failure of such activities to occur.

CONSULTATION WITH STATE AND LOCAL AUTHORITIES

(e) All determinations of the Commissioner under this section shall be made only after consultation with the State educational agency and the local educational agency.

PAYMENTS

Applications

SEC. 5. (a) (1) Any local educational agency desiring to receive the payments to which it is entitled for any fiscal year under sections 2, 3, or 4 shall submit an application therefor through the State educational agency of the State in which such agency is located to the Commissioner. Such applications shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of such payment.

(2) (A) Applications submitted under paragraph (1) for payments on the basis of children determined under section 3(a) or 3(b) who reside, or reside with a parent employed, on Indian lands shall set forth adequate assurance that Indian children will participate on an equitable basis in the school program of the local educational agency.

(B) For the purposes of this paragraph, the term "Indian lands" means that property included within the definition of Federal property under clause (A) of section 403(1).

Payments by the Commissioner

(b) (*1*) The Commissioner shall pay to each local educational agency, making application pursuant to subsection (a), the amount to which it is entitled under sections 2, 3, or 4. Sums appropriated, for any fiscal year, to enable the Commissioner to make payments pursuant to this title shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for obligation and payments with respect to amounts due local educational agencies under this title for such fiscal year, until the end of the fiscal year succeeding the fiscal year for which such sums are appropriated.

(2) Not later than thirty days after the beginning of any fiscal year the Commissioner shall, on the basis of any application for preliminary payment from any local educational agency which was eligible for a payment during the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a payment to such agency of not less than 75 per centum of the amount that such agency received during such preceding fiscal year.

Adjustments Where Necessitated by Appropriations

(c) If the sums appropriated for any fiscal year for making payments on the basis of entitlements established under sections 2, 3, and

4 for that year are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies are entitled to receive under such sections for such year, the Commissioner shall allocate such sums among local educational agencies and make payments to such agencies as follows:

(1) He shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of the amount to which it is entitled as computed under that section for such fiscal year and he shall further allocate to each local educational agency which is entitled to a payment under section 3 an amount equal to 25 per centum of the amount to which it is entitled as computed under section 3(d) for such fiscal year.

(2) From that part of such sums which remains after the allocation required by paragraph (1) for any fiscal year, he shall allocate an additional amount—

[(A) to each local educational agency described in clause (A) of section 3(d)(1) which equals 75 per centum of the amount to which agency is entitled, as compared under section 3(d) with respect to a determination of a number of children under section 3(a), for such fiscal year]

(A) to each local educational agency—

(i) with respect to which the local contribution rate has been increased under paragraph (2)(B) of section 3(d), which equals 75 per centum of the amount to which such agency is entitled as computed under section 3(d) for such fiscal year; and

(ii) described in clause (A) of section 3(d)(1) which equals 75 per centum of the amount to which such agency is entitled, as computed under section 3(d), with respect to a determination of number of children under section 3(a) and section 3(b)(3) for such fiscal year;

(B) to each local educational agency with respect to which a number of children is determined under clause (2) of section 3(a) which equals 65 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

(C) to each educational agency with respect to which a number of children is determined under clause (1) of section 3(a) which equals 63 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d) for such fiscal year;

(D) to each local educational agency with respect to which a number of children is determined under clause (3) of section 3(b) *(other than such children with respect to whom a payment is made under clause (A)(ii) of this paragraph)* which equals 35 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

(E) to each local educational agency with respect to which a number of children determined under clause (1) and clause (2)(A) of section 3(b) which equals 32 per centum of the amount to which such agency is entitled on the basis of determining such children, as compared under section 3(d) for such fiscal year.

(F) to each local educational agency with respect to which a number of children is determined under clause (2)(B) of section 3(b) which equals 28 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year.

(3) Any sums remaining after allocations are made pursuant to paragraph (2) for any fiscal year shall be allocated by the Commissioner among local educational agencies which have unsatisfied entitlements established under sections 3 and 4 in proportion to the degree to which such entitlements are unsatisfied for that fiscal year, after allocations are made pursuant to paragraphs (1) and (2).

No allocation may be made pursuant to paragraph (2) or (3) and no payment may be paid on the basis of any such allocation unless allocations are made pursuant to paragraph (1) and payments are made on the basis of such allocations. No allocation may be made pursuant to any clause of paragraph (2) and no payment may be made on the basis of any such allocation unless allocations are made pursuant to all of the clauses of such paragraph and payments are made on the basis of such allocations.

Treatment of Payments by the States in Determining Eligibility for, and the Amount of, State Aid

(d)(1) Except as provided in paragraph (2), no payments may be made under this title for any fiscal year to any local educational agency in any State (A) if that State has taken into consideration payments under this title in determining—

(i) the eligibility of any local educational agency in that State for State aid for free public education of children; or

(ii) the amount of such aid with respect to any such agency;

during that fiscal year of the preceding fiscal year, or (B) if such State makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under this title than such agency would receive if such agency were not so eligible.

(2)(A) Notwithstanding paragraph (1) of this subsection, if a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title for any fiscal year may be taken into consideration by such State in determining the relative—

(i) financial resources available to local educational agencies in that State; and

(ii) financial need of such agencies for the provision of free public education for children served by such agency, provided that a State may consider as local resources funds received under this title only in proportion to the share that local revenues covered under a State equalization program are of total local revenues. Whenever a State educational agency or local educational agency will be adversely affected by the operation of this subsection, such agency shall be afforded notice and an opportunity for a hearing prior to the reduction or termination of payments pursuant to this subsection.

(B) The terms "State aid" and "equalize expenditures" as used in this subsection shall be defined by the Commissioner by regulation, after consultation with State and local educational agencies affected by this subsection, provided that the [illegible] "equalize expenditures" shall not be construed in any manner adverse to a program of State aid for free public education which provides for taking into consideration the additional cost of providing free public education for particular groups or categories of pupils in meeting the special educational needs of such children as handicapped children, economically disadvantaged, those who need bilingual education, and gifted and talented children.

[Limitations on Payments with Respect to Children on, or Residing With a Parent Employed on, Federal Property Described in Section 404(1)(C)

[(e)(1) The Commissioner shall determine that part of the entitlement of each local educational agency, for each fiscal year ending prior to October 1, 1978, which is attributable to determinations under subsections (a) and (b) of section 3 of the number of children who resided on, or resided with a parent employed on property which is described in section 403(1)(C).

[(2) No allocation or payment shall me made under paragraph (2) of subsection (c) with respect to that part of any entitlement of any local educational agency which is determined with respect to such agency for such year under paragraph (1). The limitation in this paragraph shall not operate under the last two sentences of subsection (c) to prevent allocations and payments under such paragraph (2).

[(3) The amount of the payment to any local educational agency which is determined with respect to such agency under paragraph (1) shall be used for special programs and projects designed to meet the special educational needs of educationally deprived children from low income families.]

Use of Funds Paid with Respect to Entitlements Increased Under Section 3(d)(2)(C)

(f) The amount of the payment to any local educational agency for any fiscal year which is attributable to a determination of children for increased payments under subparagraph (C) of section 3(d)(2) shall be used by such agency for special educational programs designed to meet the special educational needs of children with respect to whom such determination is made.

(C) In the application of subparagraph (A) of this paragraph to any State having a program described in such subparagraph (A) in effect on the date of the enactment of Education Amendments of 1976, no payment may be withheld from and no repayment may be required of any State or local educational agency for any period prior to promulgation of final regulations, or, if the State is not in conformance with such regulations, until July 1, 1977.[1]

(g) Each local educational agency which is adversely affected or aggrieved by any action of the Commissioner under this title shall be entitled to a hearing on, and review of, such action in the same manner as if such agency were a person under the provisions of chapters 5 and 7 of title 5, United States Code.

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 6. (a) In the case of children who reside on Federal property—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide from public education for such children. Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section shall take such action as may be necessary to insure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, or, in the case of education provided under this section outside the continental United States, Alaska, and Hawaii, comparable to free public education provided for children in the District of Columbia. For the purpose of providing such comparable education, personnel may be employed and the compensation, tenure, leave, hours of work, and other incidents of the employment relationship may be fixed without regard to the Civil Service Act and rules (5 U.S.C. 631 et seq.) and the following: (1) the Classification Act of 1949, as amended (5 U.S.C. 1071 et seq.); (2) the Annual and Sick Leave Act of 1951, as amended (5 U.S.C. 2061 et seq.); (3) the Federal Employees' Pay Act of 1945, as amended (5 U.S.C. 901 et seq.); (4) the Veterans' Preference Act of 1944, as amended (5 U.S.C. 851 et seq.); and (5) the Performance Rating Act of 1950, as amended (5 U.S.C. 2001 et seq.) *Personnel provided for under this subsection outside of the continental United*

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[1] Section 330(b)(4) of Part B of Title III of P.L. 94–482 provides that this amendment shall take effect on July 1, 1975.

States, Alaska, and Hawaii, shall receive such compensation, tenure, leave, hours of work, and other incidents of employment on the same basis as provided for similar positions in the public schools of the District of Columbia.". In any case where education was being provided on January 1, 1955, or thereafter under an arrangement made under this subsection for children residing on an Army, Navy (including the Marine Corps), or Air Force installation, it shall be presumed, for the purposes of this subsection, that no local educational agency is able to provide suitable free public education for the children residing on such installation, until the Commissioner and the Secretary of the military department concerned jointly determine, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

(b) In any case in which the Commissioner makes such arrangements for the provision of free public education in facilities situated on Federal property, he may also make arrangements for providing free public education in such facilities for children residing in any area adjacent to such property with a parent who, during some portion of the fiscal year in which such education is provided, was employed on such property, but only if the Commissioner determines after consultation with the appropriate State educational agency (1) that the provision of such education is appropriate to carry out the purposes of this title, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) in any case where in the judgment of the Commisisoner the need for the provision of such education will not be temporary in duration, that the local educational agency of the school district in which such chldren reside, or the State educational agency, or both, will make reasonable tuition payments to the Commissioner for the education of such children. Such payments may be made either directly or through deductions from amounts to which the local educational agency is entitled under this title, or both, as may be agreed upon between such agency and the Commissioner. Any amounts paid to the Commissioner by a State or local educational agency pursuant to this section shall be covered into the Treasury as miscellaneous receipts.

(c) In any case in which the Commissioner make arrangements under this section for the provision of free public education in facilities situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, he may also make arrangements for providing free public education in such facilities for children residing with a parent employed by the United States **[**but only if the Commissioner determines after consultation with the appropriate State educational agency (1) that the provision of such education is appropriate to carry out the purposes of this title, and (2) that no local educational agency is able to provide suitable free public education for such children**]** *in a grade, position, or classification subject by policy and practice to transfer or reasignment to areas where English is the language of instruction in the schools normally attended by children of Federal employees. In any case where education is being provided under an arrangements made under this subsection it shall be presumed that no local educational agency is able to provide suitable free public education for the children of eligible parents employed* *by the United States until the Commissioner determines, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.*

(d) The Commissioner may make an arrangement under this section only with a local educational agency or with the head of a Federal department or agency administering Federal property on which children reside who are to be provided education pursuant to such arrangement or, in the case of children to whom the second sentence of subsection (a) applies, with the head of any Federal department or agency having jurisdiction over the parents of some or all of such children. Except where the Commissioner makes arrangements pursuant to the second sentence of subsection (a), arrangements may be made under this section only for the provision of education in facilities of a local educational agency or in facilities situated on Federal property. *The Commissioner shall insure that funds provided under such arrangement or arrangements are expended in an efficient manner, and shall require an accounting of funds by such agency at least on an annual basis. The Commissioner shall further be provided with data relating to the quality and type of education provided to such children under such arrangement or arrangements.*

(e) To the maximum extent practicable, the Commissioner shall limit the total payments made pursuant to any such arrangement for educating children within the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the per pupil cost of free public education provided for children in comparable communities in the State. The Commissioner shall limit the total payments made pursuant to any such arrangement for educating children outside the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the amount he determines to be necessary to provide education comparable to the free public education provided for children in the District of Columbia.

(f) If no tax revenues of a State or of any political subdivision of the State may be expended for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of section 3 and 4 of this Act. If a local educational agency refuses for any other reason to provide in any fiscal year free public education for children who reside on Federal property which is within the school district of that agency or which, in the determination of the Commissioner, would be within that school district if it were not Federal property, there shall be deducted from any amount to which the local eduactional agency is otherwise entitled for that year under section 3 or 4 an amount equal to (1) the amount (if any) by which the cost to the Commissioner of providing free public education for that year for each such child exceeds the local contribution rate of that agency for that year, multiplied by (2) the number of such children.

(g) The Commissioner shall insure the establishment of an elective school board in schools assisted under this section. Such school board shall be composed of a minimum of three members, elected by the parents of students in attendance at such school. The Commissioner

by regulation shall establish procedures for carrying out such school board elections as provided in this subsection.

(h) A school board as provided in subsection (g) shall be empowered to oversee school expenditures and operations, subject to audit procedures established by the Commissioner, and other provisions of this section.

ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES IN CASES OF CERTAIN DISASTERS

SEC. 7.[1] (a) In any case in which—

(1)(A) the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purposes of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which after August 30, 1965, and prior to October 1, 1978, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855(a)), is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities of such agency have been destroyed or seriously damaged prior to October 1, 1978, as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same similar purposes with respect to such catastrophe;

and if the Commissioner determines with respect to such agency that—

(3) such agency is utilizing or will utilize all State and other financial assistance available to it for the purpose of meeting the cost of providing free public education for the children attending the schools of such agency, but as a result of such disaster it is unable to obtain sufficient funds for such purpose and requires an amount of additional assistance equal to at least $1,000 or one-half of 1 per centum of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, and

(4) in the case of any such major disaster to the extent that the operation of private elementary and secondary schools in the school attendance area of such local educational agency has been disrupted or impaired by such disaster, such local educational

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[1] Title II, Section 204 (10) of Public Law 94–274 (Enacted April 21, 1976, 90 Stat. 392, 393) provides that the period of July 1, 1976 through September 30, 1976, shall be treated as part of the fiscal year beginning July 1, 1975, for the purposes of section 7 of the Act of September 30, 1950.

agency has made provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate: *Provided*, That nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction,

the Commissioner may provide to such agency the additional assistance necessary to provide free public education to the children attending the schools of such agency, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest. Such additional assistance may be provided for a period not greater than a five-fiscal-year period beginning with the fiscal year in which it is determined pursuant to clause (1) of this subsection that such agency suffered a disaster. The amount so provided for any fiscal year shall not exceed the amount which the Commissioner determines to be necessary to enable such agency, with the State, local, and other Federal funds available to it for such purpose, to provide a level of education equivalent to that maintained in the schools of such agency prior to the occurrence of such disaster, taking into account the additional costs reasonably necessary to carry out the provisions of clause (4) of this subsection. The amount, if any, so provided for the second, third, and fourth fiscal years following the fiscal year in which it is so determined that such agency has suffered a disaster shall not exceed 75 per centum, 50 per centum, and 25 per centum, respectively, of the amount so provided for the first fiscal year following such determination.

(b) In addition to and apart from the funds provided under subsection (a), the Commissioner is authorized to provide to such agency an amount which he determines to be necessary to replace instructional and maintenance supplies, equipment, and materials (including textbooks) destroyed or seriously damaged as a result of such disaster, to make minor repairs, and to lease or otherwise provide (other than by acquisition of land or erection of facilities) school and cafeteria facilities needed to replace temporarily such facilities which have been made unavailable as a result of the disaster.

(c) There is hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner is authorized to expend (without regard for subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 665) from any funds appropriated to the Office of Education and at that time available to the Commissioner, such sums as may be necessary for providing immediate assistance under this section. Expenditures pursuant to the preceding sentence shall—

(1) be reported by the Commissioner to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate within thirty days of the expenditure;

(2) be reimbursed from the appropriations authorized by the first sentence of this subsection.

The report required to the Committees on Appropriations by clause (1) in the preceding sentence shall constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).

(d) No payment may be made to any local educational agency under this section except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with the regulations prescribed by him. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications. *In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.*

(e) Amounts paid by the Commissioner to local educational agencies under this section may be paid in advance or by way of reimbursement and in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

TITLE IV—GENERAL PROVISIONS

ADMINISTRATION

SEC. 401.

(a) (Repealed).

(b) The Commissioner shall administer this Act, and he may make such regulations and perform such other functions as he finds necessary to carry out the provisions of this Act.

(c) The Commissioner shall include in his annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursements.

USE OF OTHER FEDERAL AGENCIES; TRANSFER AND AVAILABILITY OF APPROPRIATIONS

SEC. 402. (a) In carrying out his functions under this Act, the Commissioner is authorized, pursuant to proper agreement with any other Federal department or agency, to utilize the services and facilities of such department or agency, and, when he deems it necessary or appropriate, to delegate to any officer or employee thereof the function under section 6 of making arrangements for providing free public education. Payment to cover the cost of utilization or of carrying out such delegated function shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

(b) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may occasion assistance under title I, shall to the maximum extent practicable comply with requests of the Commissioner for information he may require in carrying out the purposes of title I.

(c) Such portion of the appropriations of any other department or agency for the fiscal year ending June 30, 1951, as the Director of the

Bureau of the Budget determines to be available for the same purposes as title I, shall, except to the extent necessary to carry out during such year contracts made prior to the enactment of title I, be transferred to the Commissioner for use by him in carrying out such purposes.

(d) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the employment of teaching personnel for the provision of free public education for children in any State or for payments to any local educational agency (directly or through the State educational agency) for free public education for children, except that nothing in the foregoing provisions of this subsection shall affect the availability of appropriations for the maintenance and operation of school facilities (1) on *Federal property under the control of the Atomic Energy Commission* or (2) by the Bureau of Indian Affairs, or the availability of appropriations for the making of payments directed to be made by section 91 of the Atomic Energy Community Act of 1955, as amended, or the availability of appropriations under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act (25 U.S.C., sec. 452).

DEFINITIONS

Sec. 403. For the purposes of this Act—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes (A) except for purposes of section 6, real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this Act, (C) any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, **[**and (D)**]** *(D)* any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal service, *except that such term shall include all real property which is owned by the United States Postal Service which is not subject to any State or local real property tax used for the support of free public*

education. Real property which qualifies as Federal property under clause (A) of this paragraph shall not lose such qualification because it is used for a low-rent housing project *and (E) any property owned by a foreign government or by an international organization which by reason of such ownership is not subject to taxation by the State in which it is located or a subdivision thereof.*

(2) The term "child" except as used in title II, means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person standing in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that for the purposes of title II such term does not include any education provided beyond grade 12.

(5) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under title II of this Act or title II or III of the Elementary and Secondary Education Act of 1965.

(6)(A) For purposes of title I, the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of [free public education] *free public elementary and secondary education through grade 12* in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education.

(B) For purposes of title II, the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school, and it also includes (except for purposes of sections 203(a)(2), 203(b), and 205(a)(1)) any State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education) or for children in institutions for neglected or delinquent children.

(7) The term "State educational agency" means the officer or agency

primarily responsible for the State supervision of public elementary and secondary schools.

(8) The term "State" means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, or the Virgin Islands, and for purposes of title II, such term includes the Trust Territory of the Pacific Islands.

(9) The trems "Commissioner of Education" and "Commissioner" mean the United States Commissioner of Education.

(10) Average daily attendance shall be determied in accordance with State law, except that (A) the average daily attendance of children with respect to whom payment is to be made under section 3 or 4 or this Act shall be determined in accordance with regulations of the Commissioner, and (B) notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes for this Act the attendance of such child at such school shall be held and considered (i) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (ii) not to be attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract. *A child shall, for the purposes of section 3, be deemed to be in attendance at a school of a local educational agency if such child is determined to be federally connected under clause (1) or (2) of section 3(a) or under clause (1), (2), or (3) of section 3(b) for any fiscal year and if such child is attending a school other than a school of such agency because such child is handicapped (as defined in section 602(1) of the Education of the Handicapped Act) and if such agency makes a tuition payment on behalf of such child to such school for such fiscal year. Regulations promulgated by the Commissioner in accordance with clause (A) of this paragraph shall permit the conversion of average daily attendance for local educational agencies in States which reimburse local educational agencies based upon average daily membership and which do not require local educational agencies to keep records based on average daily membership and which do not require local educational agencies to keep records based on average daily attendance.*

(11) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(12) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(13) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnaisums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(14) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particu-

lar facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(15) For the purpose of title II, the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(16) For purposes of title II, the "average per pupil expenditure" in a State, or in the United States shall be the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(17) For the purposes of title II, "excess costs" means those costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades includes in such programs or projects; but at the option of a local educational agency, such term need not include expenditures for any comparable State or local special programs for educationally deprived children or expenditures for bilingual programs or special education for handicapped children or children with specific learning disabilities, if such expenditures for bilingual education and special education are used to provide, to children of limited English-speaking ability and handicapped children, and children with specific learning disabilities who reside in title I project areas, services which are comparable to those provided to similarly disadvantaged children residing in nonproject areas.

SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

(P.L. 815, 81st Congress)

AN ACT Relating to the construction of school facilities in areas affected by Federal activities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSE AND APPROPRIATION

SECTION 1. The purpose of this Act is to provide assistance for the construction of urgently needed minimum school facilities in school districts which have had substantial increases in school membership as a result of new or increased Federal activities. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and each fiscal year thereafter, such sums as the Congress may determine to be necessary for such purpose. Sums so appropriated, other than sums appropriated for administration, shall remain available until expended.

PORTION OF APPROPRIATIONS AVAILABLE FOR PAYMENTS

SEC. 2. For each fiscal year the Commissioner shall determine the portion of the funds appropriated pursuant to section 1 which shall be available for carrying out the provisions of sections 9 and 10. The remainder of such funds shall be available for paying to local educational agencies the Federal share of the cost of projects for the construction of school facilities for which applications have been approved under section 6.

ESTABLISHMENT OF PRIORITIES

SEC. 3. The Commissioner shall from time to time set dates by which applications for payments under this Act with respect to construction projects must be filed, except that the last such date with respect to applications for payments on account of children referred to in paragraphs (2) or (3) of section 5(a) shall be not later than September 30, **[**1978**]** *1983*. The Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under this Act and remaining available on an such date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this Act have not already been obligated). Only applications meeting the conditions for approval under this Act (other than section 6(b)(2)(C)) shall be considered applications for purposes of the preceding sentence.

FEDERAL SHARE FOR ANY PROJECT

SEC. 4. Subject to section 5 (which imposes limitations on the total of the payments which may be made to any local educational agency), the Federal share of the cost of a project under this Act shall be equal to such cost, but in no case to exceed the cost, in the school district of the applicant, of constructing minimum school facilities, and in no case to exceed the cost in such district of constructing minimum school facilities for the estimated number of children who will be in the membership of the schools of such agency at the close of the second year following the increase period and who will otherwise be without such facilities at such time. For the purposes of the preceding sentence, the number of such children who will otherwise be without such facilities at such time shall be determined by reference to those facilities which (1) are built or under contract as of the date on which the Commissioner set, under section 3, the earliest date on or before which the application for such project was filed, or (2) as of the date the application for such project is approved, are scheduled in a project the application for which has been approved under this Act.

LIMITATIONS ON TOTAL PAYMENT TO ANY LOCAL EDUCATIONAL AGENCY

SEC. 5. (a) Subject to the limitations in subsections (c) and (d), the total of the payments to a local educational agency under this Act may not exceed the sum of the following:

[(1) the estimated increase, since the base year, in the number of children residing on Federal property, multiplied by 95 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; and

[(2) the estimated increase, since the base year, in the number of children (A) residing with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district), or (B) who had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949), multiplied by 50 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated:]

(1) the estimated increase, since the base year, in—

(A) the number of children determined with respect to such agency under section (3)(a)(2) of the Act of September 30, 1950, multiplied by 100 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated;

(B) the number of children determined with respect to such agency under section 3(b)(1) and such Act multiplied by 90 per centum of such cost;

(2) the estimated increase, since the base year, in—

(A) the number of children determined with respect to such agency under section 3 *(b)(3) of such Act multiplied by 50 per centum of such cost; and*

(B) the number of children determined with respect to such agency under section 3(b) (1) and (2) of such Act multiplied by 45 per centum of such cost; and

(3) the estimated increase, since the base year, in the number of children whose membership results directly from activities of the United States (carried on either directly or through a contractor), multiplied by 45 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated. For purposes of this paragraph, the Commissioner shall not consider as activities of the United States those activities which are carried on in connection with real property excluded from the definition of Federal property by the last sentence of paragraph (1) of section 15, but shall (if the local educational agency so elects pursuant to subsection (b)) consider as children whose membership results di-

rectly from activities of the United States children residing on Federal property or residing with a parent employed on Federal property; and

(4) for the fiscal year ending June 30, 1967, the estimated number of children, without regard to the limitation in subsection (d), whose membership in the schools of such local educational agency resulted from a change in residence from land transferred to Mexico as part of a relocation of an international boundary of the United States, multiplied by 50 per centum of the average per-pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; but if, by reason of any other provision of law, this clause is not considered in computing the maximum payments a local educational agency may receive for the fiscal year ending June 30, 1967, the additional amount such agency would have been entitled to receive shall be added to such agency's entitlement for the first fiscal year for which funds appropriated to carry out this Act may be used for such purpose.

In computing for any local educational agency the number of children in an increase under paragraph (1), (2), or (3), the estimated number of children described in such paragraph who will be in the membership of the schools of such agency at the close of the increase period shall be compared with the estimated number of such children in the average daily membership of the schools of such agency during the base year.

(b) If two or more of the paragraphs of subsection (a) apply to a child, the local educational agency shall elect which of such paragraphs shall apply to such child, except that, notwithstanding the election of a local educational agency to have paragraph (2) apply to a child instead of paragraph (1), the determination of the maximum amount for such agency under subsection (a) shall be made without regard to such election.

(c) A local educational agency shall not be eligible to have any amount included in its maximum by reason of paragraph (1), (2), or (3) of subsection (a) unless the increase in children referred to in such paragraph, prior to the application of the limitation in subsection (d) is at least twenty and—

(1) in the case of paragraph (1) or (2), is—

(A) equal to at least 10 per centum of the number of all children who were in the average daily membership of the schools of such agency during the base year, or

(B) at least one thousand five hundred, whichever is the lesser; and

(2) In the case of paragraph (3), is—

(A) equal to at least 10 per centum of the number of all children who were in the average daily membership of the schools of such agency during the base year, or

(B) at least two thousand five hundred,

whichever is the lesser: *Provided*, That no local educational agency shall be regarded as eligible under this paragraph (2) unless the Commissioner finds that the construction of additional minimum school facilities for the number of children in such increase will impose an undue financial burden on the taxing and borrowing authority of such agency.

(d) If (1) the estimated number of nonfederally connected children who will be in the membership of the schools of a local educational agency at the close of the increase period is less than (2) 106 per centum of the number of such children who were in the average daily membership of such agency during the base year, the total number of children counted for purposes of subsection (a) with respect to such agency shall be reduced by the difference between (1) and (2) hereof, except that the number of children counted for the purposes of paragraph (1) or (2) of subsection (a) shall not be reduced by more than one thousand five hundred and that hte number of children counted for the purposes of paragraph (3) of subsection (a) shall not be reduced by more than two thousand five hundred. For purposes of this subsection, all children in the membership of a local educational agency shall be counted as nonfederally connected children except children whose membership in the base year and increase period was compared in computing an increase which meets the requirements of subsection (c).

(e) Notwithstanding the provisions of subsections (c), (d), and (f) of this section, whenever and to extent that, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this Act, the Commissioner may do any one or more of the following: (1) he may waive or reduce the minimum number requirement or any percentage requirement or requirements in subsection (c); (2) he may waive the requirement contained in the first sentence of subsection (d) or reduce the percentage specified in clause (2) of such sentence; or (3) he may waive or reduce the requirement contained in subsection (f).

(f) In determining under this section the total of the payments which may be made to a local educational agency on the basis of any application, the total number of children counted for purposes of paragraph (1), (2), or (3), as the case may be, of subsection (a) may not exceed—

(1) the number of children whose membership at the close of the increase period for the application is compared with membership in the base period for purposes of that paragraph, minus

(2) the number of such children whose membership at the close of the increase period was compared with membership in the base year for purposes of such paragraph under the last previous application, if any, of the agency on the basis of which any payment has been or may be made to that agency.

APPLICATIONS

Sec. 6. (a) No payment may be made to any local educational agency under tthis Act except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him.

(b)(1) Each application by a local educational agency shall set forth the project for the construction of school facilities for such agency with respect to which it is filed, and shall contain or be supported by—

(A) a description of the project and the site therefor, preliminary drawings of the school facilities to be constructed thereon, and such other information relating to the project as may reasonably be required by the Commissioner;

(B) assurance that such agency has or will have title to the site, or the right to construct upon such site school facilities as specified in the application and to maintain such school facilities on such site for a period of not less than twenty years after the completion of the construction;

(C) assurance that such agency has legal authority to undertake the construction of the project and to finance any non-Federal share of the cost thereof as proposed, and assurance that adequate funds to defray any such non-Federal share will be available when needed;

(D) assurance that such agency will cause work on the project to be commenced wtihin a reasonable time and prosecuted to completion with reasonable diligence;

(F) assurance that the school facilities of such agency will be available to the children for whose education contributions are provided in this Act on the same terms, in accordance with the laws of the State in which the school district of such agency is situated, as they are available to other children in such school district; and

(G) assurance that such agency will from time to time prior to the completion of the project submit such report relating to the project as the Commissioner may reasonably require.

(2) The Commissioner shall approve any application if he finds (A) that the requirements of paragraph (1) have been met and that approval of the project would not result in payments in excess of those permitted by sections 4 and 5, (B) after consultation with the State and local educational agencies, that the project is not inconsistent with overall State plans for the construction of school facilities, and (C) that there are sufficient Federal funds available to pay the Federal share of the cost of such project and of all other projects for which Federal funds have not already been obligated and applications for which, under section 3, have a higher priority: *Provided*, That the Commissioner may approve any application for payments under this Act at any time after it is filed and before any priority is established with respect thereto under section 3 if he determine that—

(i) on the basis of information in his possession, it is likely that the urgency of the need of the local educational agency is such that it would have a priority under section 3 which would qualify it for payments under this Act when such priorities are established, and

(ii) the number of children in the increase under section 5(a) is in large measure attributable to children who reside or will reside in housing newly constructed on Federal property.

(c) No application under this Act shall be disapproved in whole or in part until the Commissioner of Eduction has afforded the local educational agency reasonable notice and opportunity for hearing.

PAYMENTS

SEC. 7. (a) Upon approving the application of any local educational agency under section 6, the Commissioner of Education shall pay to such agency an amount equal to 10 per centum of the Federal share of the cost of the project. After final drawings and specifications have been approved by the Commissioner of Education and the construction contract has been entered into, the Commissioner shall, in accordance with regulations prescribed by him and at such times and in such installments as may be reasonable, pay to such agency the remainder of the Federal share of the cost of the project.

(b) Any funds paid to a local educational agency under this Act and not expended for the purposes for which paid shall be repaid to the Treasury of the United States.

ADDITIONAL PAYMENTS

SEC. 8. Not to exceed 10 per centum of the sums appropriated pursuant to this Act for any fiscal year (exclusive of any sums appropriated for administration) may be used by the Commissioner, under regulations prescribed by him, to make grants to local educational agencies where (1) the application of such agencies would be approved under this Act but for the agencies' inability, unless aided by such grants, to finance the non-Federal share of the cost of the projects set forth in their applications, or (2) although the applications of such agencies have been approved, the projects covered by such applications could not, without such grants, be completed, because of flood, fire, or similar emergency affecting either the work or the projects or the agencies' ability to finance the non-Federal share of the cost of the projects. Such grants shall be in addition to the payments otherwise provided under this Act, shall be made to those local educational agencies whose need for additioinal aid is the most urgent and acute, and insofar as practicable shall be made in the same manner and upon the same terms and conditions as such other payments.

WHERE EFFECT OF FEDERAL ACTIVITIES WILL BE TEMPORARY

SEC. 9. Notwithstanding the preceding provisions of this Act, whenever the Commissioner determines that the membership of some or all of the children, who may be included in computing under section 5 the maximum on the total of the payments for any local educational agency, will be of temporary duration only, such membership shall not be included in computing such maximum. Instead, the Commissioner may make available to such agency such temporary school facilities as may be necessary to take care of such membership; or he may, where the local educational agency gives assurance that at least minimum school facilities will be provided for such children, pay (on such terms and conditions as he deems appropriate to carry out the purposes of this Act) to such agency for use in constructing school facilities an amount equal to the amount which he estimates would be necessary to make available such temporary facilities. In no case, however, may the amount so paid exceed the cost, in the school district of such agency of constructing minimum school facilities for such children. The Commissioner may transfer to such agency or its successor all the right, title, and interest of the United States in and to any temporary facilities made available to such agency under this section (or section 309 of this Act as in effect January 1, 1958); any such transfer shall be without charge, but may be made on such other terms and conditions, and at such time as the Commissioner deems appropriate to carry out the purposes of this Act.

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 10. (a) In the case of children who it is estimated by the Commissioner in any fiscal year will reside on Federal property at the end of the next fiscal year—

> (1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or
>
> (2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make arrangements for constructing, *leasing, renovating, remodeling, or rehabilitating* or otherwise providing the minimum school facilities necessary for the education of such children. In any case in which the Commissioner makes arrangements under this section for constructing, *leasing, renovating, remodeling, or rehabilitating* or otherwise providing minimum school facilities situated on Federal property in Puerto Rico, Wake Island, Guam, or the Virgin Islands, he may also include minimum school facilities necessary for the education of children residing with a parent employed by the United States though not residing on Federal property, but only if the Commissioner determines, after consultation with the appropriate State educational agency, (1) that the construction or provision of such facilities is appropriate to carry out the purposes of this Act, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) that English is not the primary language of instruction in schools in the locality. Such arrangements may also be made to provide, on a temporary basis, minimum school facilities for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable school facilities provided under this section shall be comparable to minimum school facilities provided for children in comparable communities in the State. This section shall not apply (A) to children who reside on Federal property under the control of the Atomic Energy Commission, and (B) to Indian children attending federally operated Indian schools. Whenever it is necessary for the Commissioner to provide school facilities for children residing on Federal property under this section, the membership of such children may not be included in computing under section 5 the maximum on the total of the payments for any local educational agency.

(b) When the Commissioner determines it is in the interest of the Federal Government to do so, he may transfer to the appropriate local educational agency all the right, title, and interest of the United States in and to any facilities provided under this section (or sections 204 or 310 of this Act as in effect January 1, 1958). Any such transfer shall be without charge, but may be made on such other terms and conditions, and at such time as the Commissioner deems appropriate to carry out the purposes of this Act.

(c) If no tax revenues of a State or of any political subdivision of the State may be expended for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of section 5 of this Act.

WITHHOLDING OF PAYMENTS

SEC. 11. (a) Whenever the Commissioner of Education, after reasonable notice and opportunity for hearing to a local educational agency, finds (1) that there is a substantial failure to comply with the drawings and specifications for the project, (2) that any funds paid to a local educational agency under this Act have been diverted from the purposes for which paid, or (3) that any assurance given in an application is not being or cannot be carried out, the Commissioner may forthwith notify such agency that no further payment will be made under this Act with respect to such agency until there is no longer any failure to comply or the diversion or default has been corrected or, if compliance or correction is impossible, until such agency repays or arranges for the repayment of Federal moneys which have been diverted or improperly expended.

(b) The final refusal of the Commissioner to approve part or all of any application under this Act, and the Commissioner's final action under subsection (a) of this section, shall be subject to judicial review on the record, in the United States court of appeals for the circuit in which the local educational agency is located, in accordance with the provisions of the Administrative Procedure Act.

ADMINISTRATION

SEC. 12. (b) The Commissioner of Education shall administer this Act, and he may make such regulations and perform such other functions as he finds necessary to carry out the provisions of this Act.

(c) The Commissioner shall include in his annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursements.

USE OF OTHER FEDERAL AGENCIES: TRANSFER AND AVAILABILITY OF APPROPRIATIONS

SEC. 13. (b) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may give rise to a need for the construction of school facilities, shall to the maximum extent practicable, comply with requests of the Commissioner for information he may require in carrying out the purposes of this Act.

(c) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the same purpose as this Act; except that nothing in this subsection shall affect the availability of appropriations authorized, prior to September 23, 1950, for the construction of school facilities to be attended by Indian children, or appropriations (1) for the construction of school facilities on Federal property under the control of the Atomic Energy Commission, (2) for the construction of school facilities which are to be federally operated for Indian children, or (3) for the construction of school facilities under the Alaska Public Works Act, approved August 24, 1949.

SCHOOL CONSTRUCTION ASSISTANCE IN OTHER FEDERALLY AFFECTED AREAS

SEC. 14. (a) If the Commissioner determines with respect to any local educational agency that—

(1) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide free public education for children who reside on Indian lands, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, or that such Indian lands constitute a substantial part of the school district of such local educational agency, or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceed 100;

(2) the immunity of such Indian lands to taxation by such agency has created a substantial and continuing impairment of its ability to finance needed school facilities;

(3) such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance available for the purpose; and

(4) such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education of a substantial percentage of the children in the membership of its schools.

he may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance may not exceed the portion of the cost of such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commissioner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this section. Assistance may be furnished under this subsection without regard to paragraph (2) (but subject to the other provisions of this subsection and subsection (e)) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district. For purposes of this subsection "Indian lands" means Indian reservations or other real property referred to in the second sentence of section 15(1).

(b) If the Commissioner determines with respect to any local educational agency that—

(1) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide free public education for children who reside on Indan lands, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, or that such Indian lands constitute a substntial part of the school district of such local educational agency, or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceeds one hundred; and

(2) the immunity of such Indian lands to taxation by such agency has created a substantial and continuing impairment of its ability to finance needed school facilities;

he may, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest, provide the additional assistance necessary to enable such agency to provide the minimum school facilities required for free public education of children in the membership of the schools of such agency who reside on Indian lands; but such additional assistance may not exceed the portion of the cost of constructing such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commissioner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this section. Assistance may be furnished under this subsection without regard to paragraph (2) (but subject to the other provisions of this subsection and subsection (e)) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district. For purposes of this subsection "Indian lands" means Indian reservations or other real property referred to in the second sentence of section 15(1).

(d) There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated, other than amounts appropriated for administration, shall remain available until expended.

(c) If the Commissioner determines with respect to any local educational agency—

(1) that (A) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide, free public education for children who are inadequately housed by minimum school facilities and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and (B) the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, and (C) Federal property constitutes a substantial part of the school district of such agency,

(2) that the immunity of such Federal property from taxation by such agency has created a substantial and continuing impairment of such agency's ability to finance needed school facilities,

(3) that such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance for the purpose, and

(4) that such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education of a substantial percentage of the children in the membership of its schools.

he may provide the assistance necessary to enable such agency to provide minimum school facilities for children in the membership of the schools of such agency whom the Commissioner finds to be inadequately housed, upon such terms and conditions, and in such amounts (subject to the applicable provisions of this section) as the Commissioner may consider to be in the public interest. Such assistance may not exceed the portion of the cost of such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commissioner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this subsection.

(e) No payment may be made to any local educational agency under subsection (a) or (b) except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 6(b)(1). In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications and the nature and extent of the Federal responsibility. No payment may be made under subsection (a) or (b) unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency.

(f) Amounts paid by the Commissioner to local educational agencies under subsection (a) or (b) may be paid in advance of, or by way of reimbursement for, work performed or purchases made ursuant to the agreement with the Commissioner under this section, and may be paid in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(g) None of the provisions of sections 1 to 10, both inclusive, other than section 6(b)(1), shall apply with respect to determinations made under this section.

(h) It is hereby declared to be the policy of the Congress that the provision of assistance pursuant to subsections (a) and (b) of this section shall be given a priority at least equal to that given to payments made pursuant to section 10 of this Act.

DEFINITIONS

SEC. 15. For the purposes of this Act—

(1) The term “Federal property” means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Except for the purposes of section 10, such term includes (A) real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indians tribes which is subject to restrictions on alientation imposed by the United States, any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, and (C) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term, does not include (A) any real property used for a labor supply center, labor home, or labor camp, for migratory farm workers and (B) any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services.

(2) The term “child” means any child who is within the age limits for which the applicable State provides free public education.

(3) The term “parent’ includes a legal guardian or other person standing in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

(5) The membership of schools shall be determined in accordance with State law or, in the absence of State law governing such a determination, in accordance with regulations of the Commissioner; except that, notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the membership of such child, shall be held and considered—

(A) if the two local educational agencies concerned so agree, and if such agreement is approved by the Commissioner, as membership of a school of the local educational agency receiving such tuition payment;

(B) in the absence of any such approved agreement, as membership of a school of the local educational agency so making or contracting to make such tuition payment.

In any determination of membership of schools, children who are not provided free public education (as defined in paragraph (4)) shall not be counted.

(6) The average per pupil cost of constructing minimum school facilities in the State in which the school district of a local educational agency is situated shall be determined by the Commissioner of Education on the basis of the contract cost per square foot under contracts for the construction of school facilities (exclusive of costs of site improvements, equipment, and architectural, engineering, and legal fees) entered into in the State for the second year of the four year increase period designated in the application, increased by a percentage estimated by the Commissioner to represent additional costs for site improvements, equipment, and architectural, engineering, and legal fees, and multiplied by a factor estimated by the Commissioner to represent the area needed per pupil in minimum school facilities. If the Commissioner finds that the information available for the State concerned for such preceding fiscal year is inadequate or not sufficiently representative, he shall determine such cost on the basis of such information as he has available and after consultation with the State educational agency. The cost of constructing minimum school facilities in the school district of a local educational agency shall be determined by the Commissioner, after consultation with the State and local educational agencies, on the basis of such information as may be contained in the application of such local educational agency and such other information as he may obtain.

(7) Estimates of membership, and all other determinations with respect to eligibility and maximum amount of payment, shall be made as of the time of the approval of the application for which made, and shall be made on the basis of the best information available at the time of such approval.

(8) The terms "construct", "constructing", and "construction" include the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or

extending school facilities; and the inspection and supervision of the construction of school facilities.

(9) The term "school facilities" includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes. Such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public. Except as used in sections 9 and 10, such term does not include interests in land and off-site improvements.

(10) Whether or not school facilities are minimum school facilities shall be determined by the Commissioner, after consultation with the State and local educational agencies, in accordance with regulations prescribed by him. Such regulations shall (A) require the local educational agency concerned to give due consideration to excellence of architecture and design, (B) provide that no facility shall be disqualified as a minimum school facility because of the inclusion of works of art in the plans therefor if the cost of such works of art does not exceed 1 per centum of the cost of the project, and (C) require compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this Act shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(11) The term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education or which has responsibility for the provision of such facilities.

(12) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(13) The term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, or Wake Island.

(14) The term "Commissioner of Education" and "Commissioner" mean the United States Commissioner of Education.

(15) The term "base year" means the third or fourth regular school year preceding the fiscal year in which an application was filed under this Act, as may be designated in the application, except that in the case of an application based on children referred to in paragraph (2) or (3) of section 5(a), the base year shall in no event be later than the regular school year [1973–1794] *1978–1979*; and

(16) The term "increase period" means the period of four consecutive regular school years immediately following such base year.

SCHOOL CONSTRUCTION ASSISTANCE IN CASES OF CERTAIN DISASTERS

SEC. 16. (a) In any case in which—

(1)(A) the Director of the Office of Emergency Planning determines with respect to any local education agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which, after August 30, 1965, and prior to October 1, (1983) has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)), is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) of such agency have been destroyed or seriously damaged as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or similar purposes with respect to such catastrophe;

and if the Commissioner determines with respect to such agency that—

(3) as a result of such major disaster, (A) public elementary or secondary school facilities of such agency (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) have been destroyed or seriously damaged, or (B) private elementary or secondary school facilities serving children who reside in the area served by such agency have been destroyed and will not be replaced, thereby increasing the need of such agency for school facilities;

(4) such agency is utilizing or will utilize all State and other financial assistance available for the replacement or restoration of such school facilities;

(5) such agency does not have sufficient funds available to it from State, local, and other Federal sources (including funds available under other provisions of this Act), and from the proceeds of insurance on such school facilities, and requires an amount of additional assistance equal to at least $1,000 or one-half of 1 per centum of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, to provide the minimum school facilities needed (A) for the restoration or replacement of the school facilities of such agency so destroyed or seriously damaged or (B) to serve, in facilities of such agency, children who but for the destruction of the private facilities referred to in clause (3) (B) would be served by such private facilities; and

(6) in the case of any such major disaster, to the extent that the operation of private elementary and secondary schools in the

school attendance area of the local educational agency has been disrupted or impaired by such disaster, such local educational agency has complied with the provisions of section 7(a)(4) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), with respect to provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate,

the Commissioner may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance, plus the amount which he determines to be available from State, local, and other Federal sources (including funds available under other provisions of this Act), and from the proceeds of insurance, may not exceed the cost of construction incident to the restoration or replacement of the school facilities destroyed or damaged as a result of the disaster. For the purpose of the preceding sentence, the phrase "cost of construction incident to the restoration or replacement of the school facilities" includes such additional amounts as the Commissioner may approve in order to assure that the facilities, as restored or replaced, will afford appropriate protection against personal injuries resulting from a disaster. [In all cases determined pursuant to clause (1)(B) of this subsection, and in any other case deemed appropriate by the Commissioner, such assistance shall be in the form of a repayable advance subject to such terms and conditions as he considers to be in the public interest.]

(b) There are hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner may expend (without regard to subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 665)) from any funds heretofore or hereafter appropriated for expenditure in accordance with other sections of this Act such sums as may be necessary for immediately providing assistance under this section, such appropriations to be reimbursed from the appropriations authorized by this subsection when made.

(c) No payment may be made to any local educational agency under subsection (a) except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 6(b)(1). In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications. No payment may be made under subsection (a) unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency. *In any case in which the Commissioner does not complete, within sixty days, all* *action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.*

(d) Amounts paid by the Commissioner to local educational agencies under subsection (a) may be paid in advance or by way of reimbursement and in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(e) None of the provisions of sections 1 to 10, both inclusive, other than section 6(b)(1), shall apply with respect to this section.

SPECIAL BASE CLOSING PROVISION

SEC. 17. In determining the payment to be made to a local educational agency under this Act the Commissioner shall disregard the announcement, made November 19, 1964, of a decrease in or cessation of Federal activities in certain areas, and shall carry out such Act as if such announcement had not been made.

Section 305(a)(2)(A)(i) of P.L. 93-380, as amended by sec. 48(b) of P.L. 94-273, provides as follows:

"Notwithstanding any other provision of law unless enacted in express limitation of this subparagraph—

"(I) in the case of any local educational agency which is entitled to a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) for the fiscal year ending June 30, 1973, which constituted an amount equal to not less than 10 per centum of the current expenditures of such agency for such fiscal year, the amount paid to such agency pursuant to such Act of September 30, 1950, for any fiscal year beginning after June 30, 1974, and ending prior to October 1, [1978] *1983* on the basis of the entitlement of that agency under such section 3, shall not be less than 90 per centum of the amount paid to such agency on the basis of such entitlement for the preceding fiscal year; and

"(II) in the case of any other local educational agency, the amount so paid during any fiscal year beginning after June 30, 1974, and ending prior to October 1, 1978 shall not be less than 80 per centum of the amount so paid for the preceding fiscal year."

In the case of any local educational agency which is eligible prior to July 1, 1975, for a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) by reason of the 3 per centum requirement in clause (B) of section 3(c)(2) of such Act, as in effect prior to the effective date of the amendment made by paragraph (1) of subsection (a), but which fails to meet such requirement in any fiscal year ending prior to October 1, 1977, such agency shall continue to be eligible for a payment under such section 3 as then in effect for the two succeeding fiscal years, but the payment under such section during the second of such succeeding fiscal year shall not exceed 50 per centum of the amount of the payment such agency was entitled to receive during the most recent fiscal year in which it was so eligible by reason of such clause (B).

"(ii) Funds appropriated for any fiscal year for making payments to local educational agencies pursuant to the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), which are increased by reason of the provisions of division (i) shall, to the extent of any such increase, be separate from funds appropriated for such fiscal year for payments pursuant to title I of such Act which are not so increased. If, for any fiscal year, a law making appropriations for payments pursuant to such title I is enacted and such law makes no express provision for payment increased by division (i)—

"(I) all funds so appropriated shall be allocated and paid in accordance with section 5 of such Act of September 30, 1950, and without regard for the provisions of division (i); and

"(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate which report shall contain a statement detailing the dollar amounts necessary to satisfy the requirements of division (i) and constitute a budget estimate within the meaning of Section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).

"(B) In the case of any local educational agency which experiences a decrease in the number of children determined by the Commissioner of Education under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) of 10 per centum or more of such number—

"(i) During the fiscal year ending June 30, 1974, or the fiscal year ending June 30, 1975; or

"(ii) During the period beginning July 1, 1973, and ending June 30, 1975."

As the result of a decrease in, or cessation of, Federal activities affecting military installations in the United States announced after April 16, 1973, the amount of the payment to which such agency shall be entitled under title I of such Act, as computed under

section 3 of such Act for any fiscal year ending prior to July 1, [1978] *1983*, shall not be less than 90 per centum of the amount to which the agency was so entitled during the preceding fiscal year. The provisions of this subparagraph shall be effective on and after July 1, 1974, and with respect to appropriations for the fiscal year ending June 30, 1975, and succeeding fiscal years, and such provisions shall be deemed to have been enacted before the beginning of the fiscal year ending June 30, 1975. Nothing in this subparagraph shall be construed to decrease the amount of the payment to which any local educational agency is entitled for any fiscal year on the basis of entitlements created under section 3 of such Act of September 30, 1950.

"(C) During the fiscal year in which the amendments made by subsection (a) are effective and each of the succeeding fiscal years ending prior to July 1, [1978] *1983*, the Commissioner shall determine with respect to each local educational agency in any State the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent employed on Federal property in a State or in a county other than the State or county, as the case may be, in which the school district of such agency is located but which is situated within a reasonable commuting distance from the school district of such agency. If the number of children determined under the preceding sentence is equal to at least 10 per centum of the total number of children determined with respect to such agency for such fiscal year under section 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), the amount to which such agency shall be entitled with respect to a number of children determined under such section 3(b) for such fiscal year, shall not be less than 90 per centum of the amount which such agency received with respect to the number of children so determined during the preceding fiscal year, as computed under section 3 of such Act.

"(D)(i) The Commissioner shall determine for each fiscal year beginning after June 30, 1975, and ending prior to July 1, [1978] *1983*, the amount which each local educational agency would be paid for that fiscal year under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) if the amount appropriated had been allocated as provided in section 5(c) of such Act without regard for entitlements (or portions thereof) which are attributable to determinations under subsections (a) and (b) of such section of the number of children who resided on, or resided with a parent employed on, property which is part of a low-rent housing project described in section 403(1)(C). The Commissioner shall then determine the amount which each local educational agency is to be paid for that fiscal year under such section 3 and allocated in accordance with such section 5(c). If the amount determined with respect to any local educational agency under the first sentence of this division is greater than the amount determined with respect to the second sentence of this division, the Commissioner shall pay to that agency an amount equal to the difference between the amounts so determined.

"(ii) Funds appropriated for any fiscal year for making payments pursuant to the third sentence of division (i) shall be separate from funds appropriated or such fiscal year for making payments pursuant to section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress). If, for any fiscal year, a law making appropriations for payments pursuant to such section 5 is enacted, and such law makes no express provision for payments pursuant to such third sentence—

"(I) all funds so appropriated shall be allocated and paid in accordance with such section 5, without regard for such third sentence; and

"(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate, which report shall contain a statement detailing the dollar amounts necessary to make the payments required under such third sentence and shall, with respect to such dollar amounts, constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5))."

TITLE III—ADULT EDUCATION

SHORT TITLE

SEC. 301. This title may be cited as the "Adult Education Act".

[STATEMENT OF PURPOSE

[SEC. 302. It is the purpose of this title to expand educational opportunity and encourage the establishment of programs of adult public education that will enable all adults to continue their education to at least the level of completion of secondary school and make available the means to secure training that will enable them to become more employable, productive, and responsible citizens.]

STATEMENT OF PURPOSE

SEC. 302. It is the purpose of this title to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will—

(1) enable all adults to acquire basic skills necessary to function in society,

(2) enable adults who so desire to continue their education to at least the level of completion of secondary school, and

(3) to make available to adults the means to secure training that will enable them to become more employable, productive, and responsible citizens.

DEFINITIONS

Sec. 303. As used in this title—

(a) The term "adult" means any individual who has attained the age of sixteen.

(b) The term "adult education" means services or instruction below the college level (as determined by the Commissioner), for adults who—

(1) *lack mastery of basic educational skills to enable them to function effectively in society or who* do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education, and

(2) are not currently required to be enrolled in schools.

(c) The term "adult basic education" means adult education for adults whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, which is designed to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others, to improving their ability to benefit from occupational training and otherwise increase their opportunities for more productive and profitable employment, and to making them better able to meet their adult responsibilities.

(d) The term "Commissioner" means the Commissioner of Education.

(e) The term "community school program" is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community that center serves in accordance with the needs, interests, and concerns of that community.

(f) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

(g) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and (except for the purposes of section 305 (a)) Guam, American Samoa, the Trust Territory of the Pacific Islands *the Northern Mariana Islands*, and the Virgin Islands.

(h) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

(i) The term "academic education" means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

(j) The term "institution of higher education" means any such institution as defined by section 801(e) of the Elementary and Secondary Education Act of 1965.

GRANTS TO STATES FOR ADULT EDUCATION

SEC. 304. (a) (Repealed).

(b) The Commissioner is authorized to make grants to States, which have State plans approved by him under section 306 for the purposes of this section, to pay the Federal share of the cost of (1) the establishment or expansion of adult basic education programs to be carried out by local educational agencies and [private nonprofit agencies] *public agencies or private nonprofit organizations and institutions*, and (2) the establishment or expansion of adult education programs to be carried out by local educational agencies and private nonprofit agencies.

ALLOTMENT FOR ADULT EDUCATION

SEC. 305. (a) From the sums available for purposes of section 304 (b) for the fiscal year ending June 30, 1972, and for any succeeding fiscal year, the Commissioner shall allot (1) not more than 1 per centum thereof among Guam, American Samoa, the Trust Territory of the Pacific Islands *the Northern Mariana Islands*, and the Virgin Islands according to their respective needs for assistance under such section, and (2) $150,000 to each State. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in such State bears to the number of such adults in all States. From the sums available for purposes of section 304(b) for the fiscal year ending June 30, 1970, and the succeeding fiscal year, the Commissioner shall make allotments in accordance with section 305(a) of the Adult Education Act of 1966 as in effect on June 30, 1969.

(b) The portion of any State's allotment under section (a) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Commissioner shall fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount allotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

[STATE PLANS

[SEC. 306. (a) Any State desiring to receive its allotment of Federal funds for any grant under this title shall submit through its State educational agency a State plan. Such State plan shall be in such detail as the Commissioner deems necessary, and shall—

[(1) set forth a program for the use of grants, in accordance with section 304(b), which affords assurance of substantial progress with respect to all segments of the adult population, including institutionalized persons, and all areas of the State, toward carrying out the purposes of such section, that not to exceed 20 per centum of the funds used to carry out this Act for any fiscal year may be used for the education of institutionalized persons;

[(2) provide for the administration of such plan by the State educational agency;

[(3) provide for cooperative arrangements between the State educational agency and the State health authority authorizing the use of such health information and services for adults as may be available from such agencies and as may reasonably be necessary to enable them to benefit from the instruction provided pursuant to this title;

[(4) provide for grants to public and private nonprofit agencies for special projects, teacher-training, and research;

[(5) provide for cooperation with Community Action programs, Work Experience programs, VISTA, Work Study, and other programs relating to the antipoverty effort;

[(6) provide for cooperation with manpower development and training programs and occupational education programs, and for coordination of programs carried on under this title with other programs, including reading improvement programs, designed to provide reading instruction for adults carried on by State and local agencies;

[(7) provide that such agency will make available not to exceed 20 per centum of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school;

[(8) provide that such agency will make such reports to the Commissioner, in such form and containing such information, as may reasonably be necessary to enable the Commissioner to perform his duties under this title and will keep such records and afford such access thereto as the Commissioner finds necessary to assure the correctness and verification of such reports;

[(9) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this title (including such funds paid by the State to local educational agencies and private nonprofit agencies);

[(10) provide that special emphasis be given to adult basic education programs except where such needs can be shown to have been met in the State;

[(11) provide that special assistance be given to the needs of persons of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965), by providing bilingual adult education programs in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, carried out in coordination with programs of bilingual education assisted under such title VII and bilingual vocational education programs under the Vocational Education Act of 1963; and

[(12) provide such further information and assurances as the Commissioner may by regulation require.

[(b) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.]

STATE PLANS

Sec. 306. (a) A State shall be eligible to receive its allotment under section 305 if—

(1) it has on file with the Commissioner a general State application under section 434 of the General Education Provisions Act, and

(2) it has submitted to the Commissioner at such times (not more frequently than one every three years), and in such detail, as the Commissioner shall prescribe a State plan meeting the requirements of subsection (b).

(b) A State plan under this title shall—

(1) set forth a program for the use of funds provided under this title to carry out the purposes stated in section 302 with respect to all segments of the adult population in the State, including institutionalized adults, and all areas of the State;

(2) provide for the administration of the program by the State educational agency;

(3) provide for adequate consultation, cooperation, and coordination among the State educational agency, State manpower services councils, State occupational information systems, and other agencies, organizations, and institutions in the State which operate employment and training programs or other educational or training programs for adults; and for coordination of programs carried on under this title with other programs, including reading improvement programs, designed to provide reading instruction for adults carried on by State and local agencies;

(4) identify (A) the needs of the population of the State for services authorized under this title, (B) the other resources in the State available to meet those needs, and (C) the goals the State will seek to achieve in meeting those needs over the period covered by the plan;

(5) provide that such agency will make available not to exceed 20 per centum of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school;

(6) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this title (including such funds paid by the State to local educational agencies and public or private nonprofit agencies, organizations, and institutions);

(7) describe the means by which the delivery of adult education services will be significantly expanded through the use of agencies, institutions, and organizations other than public school systems, such as businesses, labor unions, libraries, institutions of higher education, public health authorities, antipoverty programs, and community organizations;

(8) describe the means by which representatives of business and industry, labor unions, public and private educational agencies and institutions, churches, fraternal and voluntary organizations, community organizations, State and local manpower and training agencies, and other entities in the State concerned with adult education have been involved in the development of the plan and will continue to be involved in carrying out the plan, especially with regard to the expansion of the delivery of adult education services through those agencies, institutions, and organizations;

(9) describe the efforts to be undertaken by the State to assist adult participation in adult education programs through flexible course schedules, convenient locations, adequate transportation, and meeting child care needs;

(10) provide that special emphasis be given to adult basic education programs except where such needs are shown to have been met in the State;

(11) provide that special assistance be given to the needs of persons with limited English proficiency (as defined in section 703 (a) of title VII of the Elementary and Secondary Education Act of 1965) by providing a bilingual adult education program of instruction in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, carried out in coordination with programs of bilingual education assisted under such title VII and bilingual vocational education programs under under the Vocational Education Act of 1963;

(12) demonstrate that the special educational needs of adult immigrants in the State have been examined, and provide for the the implementation of adult education and adult basic education programs for immigrants to meet existing needs;

(13) set forth the criteria by which the State will evaluate the quality of proposals from local agencies, organizations, and institutions; and

(14) provide such further information and assurances as the Commissioner may be regulation require, including information regarding the extent to which the goals of the program have been achieved during the preceding three years.

(c) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

[PAYMENTS

[SEC. 307. (a) Except as provided in subsection (b), the Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to such State. The Federal share for each State shall be 90 per centum, except that with respect to the Trust Territory of the Pacific Islands, such Federal share shall be 100 per centum.

[(b) No payment shall be made to any State from its allotment for any fiscal year unless the Commissioner finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the second preceding fiscal year, but no State shall be required to use its funds to supplant any portion of the Federal share.]

"PAYMENTS

SEC. 307. (a) The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be 90 per centum of the cost of carrying out the State's programs, except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share shall be 100 per centum.

(b) No payment shall be made to any State from its allotment for any fiscal year unless the Commissioner finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the second preceding fiscal year, but no State shall be required to use its funds to supplant any portion of the Federal share.

OPERATION OF STATE PLANS; HEARINGS AND JUDICIAL REVIEW

SEC. 308. (a) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State educational agency administering a State plan approved under this title, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of section 306, or

(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in his discretion, that further payments to the State will be limied to programs under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payments shall be limited to programs under or portions of the State plan not affected by such failure).

(b) A State educational agency dissatisfied with a final action of the Commisioner under section 306 or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filling a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commisioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commisioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or part, any action of the Commissioner shall be final, subject to the review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

RESEARCH, DEVELOPMENT, DISSEMINATION, EVALUATION, AND INFORMATION CLEARINGHOUSE

SEC. 309. (a)(1) The Commissioner shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, including the National Institute of Education, carry out a program—

(A) to develop new and promising approaches to address those needs, including one-year grants to States to plan for the expansion of their systems for the delivery of adult education services,

(B) to evaluate the effectiveness of such approaches as well as the effectiveness of other programs assisted under this Act, and

(C) to disseminate the results of activities under this section throughout the Nation.

(2) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the National Institute of Education shall, in accordance with the terms and conditions of section 405 of such Act carry out a program of research and related activities pertaining to adult education. The Commissioner is authorized to conduct a program of research and related activities pertaining to adult education and may transfer all or part of the amounts available for the purposes of this section, to the National Institute of Education for such

programs and activities but such sums shall not exceed 20 per centum of the amount available for this section.

(b) The Commissioner shall establish and operate a clearinghouse on adult education, which shall collect and disseminate to the public information pertaining to the education of adults and adult education programs, together with ways of coordinating adult education programs with manpower and other education programs. The Commissioner is authorized to enter into contracts with public agencies or private organizations to operate the clearinghouse established or designated under this section.

(c)(1) The Commissioner shall reserve for the purposes of this section not less than 1 per centum nor more than 5 per centum of the amounts appropriated under section 315 of this title.

(2) From the amounts reserved under paragraph (1) of this subsection (1), the Commissioner shall reserve for the establishment and operation of a clearinghouse pursuant to subsection (b) of this section, an amount equal to at least the amount available in the fiscal year 1978 for the clearinghouse on adult education.

USE OF FUNDS FOR SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING

SEC. [309] *310.* Of the funds allotted to a State under section 305 for a fiscal year, not less than 10 per centum shall be used for—

(1) special projects which will be carried out in furtherance of the purposes of this title, and which—

(A) involve the use of innovative methods, including methods for educating persons of limited English-speaking ability, systems, materials, or programs which may have national significance or be of special value in promoting effective programs under this title, or

(B) involve programs of adult education, including education for persons of limited English-speaking ability, which are part of community school programs, carried out in cooperation with other Federal, federally assisted, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

[CLEARINGHOUSE ON ADULT EDUCATION

[SEC. 309A. The Commissioner shall establish and operate a clearinghouse on adult education, which shall collect and disseminate to the public information pertaining to the education of adults and adult education programs, together with ways of coordinating adult education programs with manpower and other education programs. The Commissioner is authorized to enter into contracts with public agencies or private organizations to operate the clearinghouse established or designated under this section.]

SPECIAL PROJECTS FOR THE ELDERLY

SEC. [310] *311* (a) The Commissioner is authorized to make grants to State and local educational agencies or other public or private nonprofit agencies for programs to further the purpose of this Act by providing educational programs for elderly persons whose ability to speak and read the English language is limited and who live in an area with a culture different than their own. Such programs shall be designed to equip such elderly persons to deal successfully with the practical problems in their everyday life, including the making of purchases, meeting their transportation and housing needs, and complying with governmental requirements such as those for obtaining citizenship, public assistance and social security benefits, and housing.

(b) For the purpose of making grants under this section there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1973, for each succeeding fiscal year ending prior to [October 1, 1978, and for the period beginning July 1, 1976, and ending September 30 1976] *October 1, 1983.*

(c) In carrying out the program authorized by this section, the Commissioner shall consult with the Commissioner of the Administration on Aging for the purpose of coordinating, where practicable, the programs assisted under this section with the programs assisted under the Older Americans Act of 1965.

STATE ADVISORY COUNCILS

SEC. [310A] *312.* (a) Any State which receives assistance under this title may establish and maintain a State advisory council, or may designate and maintain an existing State advisory council, which shall be, or has been, appointed by the Governor or, in the case of a State in which members of the State board which governs the State education agency are elected (including election by the State legislature), by such board.

(b)(1) Such a State advisory council shall include as members persons who, by reason of experience or training, are knowledgeable in the field of adult education or who are officials of the State educational agency or of local educational agencies of that State, persons who are or have received adult eduactional services, and persons who are representative of the general public.

(2) Such a State advisory council, in accordance with regulations prescribed by the Commissioner, shall—

(A) advise the State educational agency on the development of, and policy matters arising in, the administration of the State plan approved pursuant to section 306;

(B) advise with respect to long-range planning and studies to evaluate adult education programs, services, and activities assisted under this Act; and

(C) prepare and submit to the State educational agency, and to the National Advisory Council for Adult Education established pursuant to section 310, an annual report of its recommendations, accompanied by such additional comments of the State educational agency as that agency deems appropriate.

(c) Upon the appointment of any such advisory council, the appointing authority under subsection (a) of this section shall inform the Commissioner of the establishment of, and membership of, its State advisory council. The Commissioner shall, upon receiving such information, certify that each such council is in compliance with the membership requirements set forth in subsection (b)(1) of this section.

(d) Each such State advisory council shall meet within thirty days after certification has been accepted by the Commissioner under subsection (c) of this section and select from among its membership a chairman. The time, place, and manner of subsequent meetings shall be provided by the rules of the State advisory council, except that such rules shall provide that each such council meet at least four times each year, including at least one public meeting at which the public is given the opportunity to express views concerning adult education.

(e) Each such State advisory council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this section.

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Sec. [311]. *313* (a) The President shall appoint a National Advisory Council on Adult Education (hereinafter in this section referred to as the "Council").

(b) The Council shall consist of fifteen members who shall, to the extent possible, include persons knowledgeable in the field of adult education including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, State and local public school officials, and other persons having special knowledge and experience or qualifications with respect to adult education, and persons representative of the general public. The Council shall meet initially at the call of the Commissioner and elect from its number a chairman. The Council will thereafter meet at the call of the chairman, but not less often than twice a year. Subject to section 448(b) of the General Education Provisions Act, the Council shall continue to exist until [October 1, 1978] *October 1, 1983.*

(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

(d) The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations. The Secretary of Health, Education, and Welfare shall coordinate the work of the Council with that of other related advisory councils.

(e) The Commissioner shall reserve for the purpose of this subsection an amount equal to at least the amount available for the National Advisory Council in fiscal year 1978.

LIMITATION

SEC. [312] *314.* No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term "school or department of divinity" means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

[APPROPRIATIONS AUTHORIZED

[SEC. 313. (a) There are authorized to be appropriated $160,000,000 for the fiscal year ending June 30, 1970, $200,000,000 for the fiscal year ending June 3, 1971, $225,000,000 for each of the fiscal years ending June 30, 1972, and June 30, 1973, $150,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975, $175,000,000 for the fiscal year ending June 30, 1976, and $200,000,000 for each of the fiscal years ending June 3, 1977, and June 30, 1978: *Provided*, That effective with respect to fiscal years after June 30, 1974, grants to each State under section 305 shall not be less than 90 per centum of the grants made to such State agencies in fiscal year 1973 for the purposes of this title (other than sections 310 and 314).

[(b) There are further authorized to be appropriated for each such fiscal year such sums, not to exceed 5 per centum of the amount appropriated pursuant to subsection (a) of such year, as may be necessary to pay the cost of the administration and development of State plans, and other activities required pursuant to this title. For the fiscal year ending June 30, 1970, and the succeeding fiscal year, nothing in this subsection shall be construed to prohibit the use of any amounts appropriated pursuant to this Act to pay such costs, subject to such limitations as the Commissioner may prescribe.]

APPROPRIATIONS AUTHORIZED

SEC. 315. (a) Except as otherwise provided, there are authorized to be appropriated $225,000,000 for the fiscal year 1979; $250,000,000 for the fiscal year 1980; $275,000,000 for the fiscal year 1981; $300,000,000 for the fiscal year 1982; and $325,000,000 for the fiscal year 1983 to carry out the provisions of this title.

(b) There are further authorized to be appropriated for each such fiscal year such sums, not to exceed 5 per centum of the amount appropriated to subsection (a) for that year, as may be necessary to pay the cost of the administration and development of State plans, and other activities required pursuant to this title. The amount provided to a

State under this subsection shall not be less than $50,000 for any fiscal year, except that such amount shall not be less than $25,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS

Sec. [314] *316.* (a) The Commissioner shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians—

(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

(4) to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion on Indian reservations;

(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

(b) The Commissioner is also authorized to make grants to, and contracts with, public agencies, and institutions, and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(2) the evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

(1) set forth a statement describing the activities for which assistance is sought;

(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a), the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

(d) For the purpose of making grants under this section there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $8,000,000 for each of the succeeding fiscal years ending prior to [July 1, 1978] *October 1, 1983*

EMERGENCY ADULT EDUCATION PROGRAM FOR INDOCHINA REFUGEES

SEC. [315] *317*. (a) From the appropriations authorized for the period beginning July 1, 1976, and ending September 30, 1977, but not appropriated for other programs under this title, the Commissioner shall carry out a program of making grants to State and local education agencies for such years for the purpose of operating special adult education programs for Indochina refugees, as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975. Such grants may be used for—

(1) programs of instruction of adult refugees in basic reading, mathematics, development and enhancement of necessary skills, and promotion of literacy among refugee adults, for the purpose of enabling them to become productive members of American society;

(2) administrative costs of planning and operating such programs of instruction;

(3) educational support services which meet the need of adult refugees, including but not limited to guidance and counseling with regard to educational, career, and employment opportunities; and

(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.

(b) The Commissioner shall not approve an application for a grant under this section unless (1) in the case of an application by a local education agency, it has been reviewed by the respective State education agency which shall provide assurance to the Commissioner that, if approved by the Commissioner, the grant will not duplicate existing and available programs of adult education which meet the special needs of Indochina refugees, and (2) the application includes a plan acceptable to the Commissioner which provides reasonable assurances that adult refugees who are in need of a program are located in an area near that State or local education agency and would participate in the program if available.

(c) Applictions for a grant under this section shall be submitted at such time, in such manner, and contain such information as the Commissioner may reasonably require.

(d) Notwithstanding the provisions of sections 305 and 307(a), the Commissioner shall pay all the costs of applications approved by him under this section.

ADULT EDUCATION PROGRAM FOR ADULT IMMIGRANTS

Sec. 318. (a) The Commissioner is authorized to enter into grants and contracts with State and local education agencies and other public or private nonprofit agencies, organizations, or institutions to provide programs of adult education and adult basic education to immigrant adults in need of such services. Such grants and contracts may be used for—

(1) programs of instruction of adult immigrants in basic reading, mathematics, development, and enhancement of necessary skills, and promotion of literacy among adult immigrants for the purpose of enabling them to become productive members of American society;

(2) administrative costs of planning and operating such programs of instruction;

(3) educational support services which meet the need of adult immigrants including but not limited to guidance and counseling with regard to educational, career, and employment opportunities; and

(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.

(b)(1) Any applicant for a grant or contract under this section shall first submit its application to the State educational agency. The State educational agency shall expeditiously review and make recommendations to the Commissioner regarding the quality of each such application, consistent with the purposes of section 306(b)(12) and (13) of this title. A copy of the recommendations made by the State educational agency shall be simultaneously submitted to the applicant.

(2) Any applicant which has submitted an application in accordance with paragraph (1) of this subsection, which is dissatisfied with the action of the appropriate State educational agency may petition the Commissioner to request further consideration by the Commissioner of such application.

(c) Applications for a grant or contract under this section shall be submitted at such time, in such manner, and contain such information as the Commissioner may reasonably require.

(d) Notwithstanding the provisions of section 305 and 307(a), the Commissioner shall pay all the costs of applications approved by him under this section.

(e) Not less than 50 per centum of the funds appropriated under this section shall be used by the Commissioner to enter into contracts with private nonprofit agencies, organizations, and institutions.

(f) For the purposes of making grants and entering into contracts under this section, there is hereby authorized to be appropriated such sums as may be necessary for fiscal year 1979 and each of the four succeeding fiscal years.

INDIAN EDUCATION ACT

SHORT TITLE

SEC. 401. This title may be cited as the "Indian Education Act."

Enacted June 23, 1972, P.L. 92-318, sec. 401, 86 Stat. 334.

Part A—Revision of Impacted Areas Program as it Relates to Indian Children

AMENDMENTS TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

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(NOTE.—These provisions are contained in Title III, P.L. 874 at p. 235)

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Part B—Special Programs and Projcets To Improve Educational Opportunities for Indian Children

AMENDMENT TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

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(NOTE.—These provisions are contained in Title VIII of the ESEA at p. 152)

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SEC. 421. (b)(2) For the purposes of titles II and III of the Elementary and Secondary Education Act of 1965 and part B of title VI of Public Law 91-230, the Secretary of the Interior shall have the same duties and responsibilities with respect to funds paid to him under such titles, as he would have if the Department of the Interior were a State educational agency having responsibility for the administration of a State plan under such titles.

SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR TEACHERS OF INDIAN CHILDREN

SEC. 422. (a) The Commissioner is authorized to make grants to and enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian children and to provide in-service training for persons teaching in such programs. Priority shall be given to Indian institutions and organizations. In carrying out his responsibilities under this section, the Commissioner is authorized to award the fellowships and traineeships to individuals and to make grants to and to enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for cost of education allowances. In awarding fellowships and traineeships under this section, the Commissioner shall give preference to Indians.

(b) In the case of traineeships and fellowships, the Commissioner is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

(c) There is authorized to be appropriate $2,000,000 for the fiscal year ending June 30, 1975, and for [each of the three succeeding fiscal years] *each of the succeeding fiscal years ending prior to October 1, 1983* to carry out the provisions of this section.

FELLOWSHIPS FOR INDIAN STUDENTS

SEC. 423. (a) During the fiscal year ending June 30, 1975, and [each of the three succeeding fiscal years] *each of the succeeding fiscal years ending prior to October, 1983*, the Commissioner is authorized to award not to exceed two hundred fellowships to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not less than three, nor more than four, academic years leading toward a professional or graduate degree in engineering, medicine, law, business, forestry and related fields. In addition to the fellowships authorized to be awarded in the first sentence of this subsection, the Commissioner is authorized to award a number of fellowships equal to the number previously awarded during any fiscal year under this subsection but vacated prior to the end of the period during which they were awarded, except that each fellowship so awarded shall be only for a period of study not in excess of the remainder of the period of time for which the fellowship it replaces was awarded, as the Commissioner may determine.

(b) The Commissioner shall pay to persons awarded fellowships under this subsection such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) The Commissioner shall pay to the institution of higher education at which the holder of a fellowship under this subsection is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Commissioner may determine to cover the cost of education for the holder of such a fellowship.

PART C—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

AMENDMENT TO THE ADULT EDUCATION ACT

(NOTE.—These provisions are contained in section 314 of the Adult Education Act at p. 742.)

PART D—OFFICE OF INDIAN EDUCATION

OFFICE OF INDIAN EDUCATION

SEC. 441. (a) There is hereby established, in the Office of Education, a bureau to be known as the "Office of Indian Education" which, under the direction of the Commissioner, shall have the responsibility for administering the provisions of title III of the Act of Septetmber 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 314 of title III of the

Elementary and Secondary Education Amendments of 1956, as added by this Act. The Office shall be headed by a Deputy Commissioner of Indian Education, who shall be appointed by the Commissioner of Education from a list of nominees submitted to him by the National Advisory Council on Indian Education.

(b) The Deputy Commissioner of Indian Education shall be compensated at the rate prescribed for, and shall be placed in, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall perform such duties as are delegated or assigned to him by the Commissioner. The position created by this subsection shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of title 5, United States Code.

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

SEC. 442. (a) There is hereby established the National Advisory Council on Indian Education (referred to in this title as the "National Council"), which shall consist of fifteen members who are Indians and Alaska Natives appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until [October 1, 1978] *October 1, 1983.*

(b) The National Council shall—

(1) advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, and section 810, title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and with respect to adequate funding thereof;

(2) review applications for assistance under title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and section 314 of the Adult Education Act, as added by this Act, and make recommendations to the Commissioner with respect to their approval;

(3) evaluate program and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress); and

(6) to submit to the Congress not later than June 30 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the Nation Council's recommendations to the Commissioner with respect to the funding of any such programs.

(c) With respect to functions of the National Council stated in clauses (2), (3), and (4) of subsection (b), the National Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) From the sums appropriated pursuant to section 400(d) of the General Education Provisions Act which are available for the purposes of section 411 of such Act and for part D of such Act, the Commissioner shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section.

PART E—MISCELLANEOUS PROVISIONS

SEC. 451. (This section is an amendment to Part D Title V of the HEA of 1965. Effective September 30, 1976, Part D of Title V is repealed by P.L. 94–482).

SEC. 452. (This section is an amendment to Title VII of the ESEA of 1965 and is included at p. 141).

DEFINITION

SEC. 453. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian."

TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

SHORT TITLE

SEC. 301. This title may be cited as the "Indian Elementary and Secondary School Assistance Act."

Enacted June 23, 1972, P.L. 92–318, sec. 411, 86 Stat. 334.

DECLARATION OF POLICY

SEC. 302. (a) In recognition of the special educational needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational needs.

(b) The Commissioner shall, in order to effectuate the policy set forth in subsection (a), carry out a program of making grants to local educational agencies which are entitled to payments under this title and which have submitted, and had approved, applications therefor, in accordance with the provisions of this title.

GRANTS TO LOCAL EDUCATIONAL AGENCIES

Sec. 303.[1] (a)(1) For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year ending prior to [October 1, 1978] *October 1, 1983* the Commissioner shall determine the number of Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

(2)(A) The amount of the grant to which a local educational agency is entitled under this title for any fiscal year shall be an amount equal to (i) the average per pupil expenditure for such agency (as determined under subparagraph (C)) multiplied by (ii) the sum of the number of children determined under paragraph (1).

(B) A local educational agency shall not be entitled to receive a grant under this title for any fiscal year unless the number of children under this subsection, with respect to such agency, is at least ten or constitutes at least 50 per centum of its total enrollment. The requirements of this subparagraph shall not apply to any such agencies serving Indian children in Alaska, California, and Oklahoma or located on, or in proximity to, an Indian reservation.

(C) For the purposes of this subsection, the average per pupil expenditure for a local educational agency shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children who were in average daily enrollment for whom such agencies provided free public education during such preceding fiscal year.

(b) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to provide financial assistance to school on or near reservations which are not local educational agencies or have not been local educational agencies for more than three years, in accordance with the appropriate provisions of this title.

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[1] Title II, Section 205(6) of P.L. 94–274 (Enacted April 21, 1976, 90 Stat. 393, 394) provides that the period of July 1, 1976, through September 30, 1976, shall be treated as part of the fiscal year beginning October 1, 1976 for the purposes of Section 303 of the Act of September 30, 1950.

USES OF FEDERAL FUNDS

SEC. 304. Grants under this title may be used, in accordance with applications approved under section 305, for—

(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational needs of Indian children, including pilot projects designed to test the effectiveness of plans so developed; and

(2) the establishment, maintenance, and operation of programs, including, in accordance with special regulations of the Commissioner, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment, specially designed to meet the special educationad needs of Indian children.

APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

SEC. 305. (a) A grant under this title, except as provided in section 303(b), may be made only to a local educational agency or agencies, and only upon application to the Commissioner at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes of section 304, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(3) in the case of an application for payments for planning, provide that (A) the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this title, and (B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

(5) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

(7) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under

this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of Indian students in the area served, and for keeping such record and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

(1) meets the requirements set forth in subsection (a);

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) has been developed—

(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(ii) with the participation and approval of a committee composed of, and selected by, parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students of which at least half the members shall be such parents;

(C) sets for such policies and procedures as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purpose of clause (2)(B)(ii).

(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

PAYMENTS

SEC. 306. (a) The Commissioner shall, subject to the provisions of section 307, from time to time pay to each local educational agency which has had an application approved under section 305, an amount equal to the amount expended by such agency in carrying out activities under such application.

(b)(1) No payments shall be made under this title for any fiscal year to any local educational agency in a State which has taken into consideration payments under this title in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency

finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

SEC. 307. (a) If the sums appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under this title for that fiscal year, the maximum amounts which all such agencies are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year, during which the first sentence of this subsection is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner shall fix dates prior to which each local educational agency shall report to him on the amount of funds available to it, under the terms of section 306(a) and subsection (a) of this section, which it estimates, in accordance with regulations of the Commissioner, that it will expend under approved applications. The amounts so available to any local educational agency, or any amount which would be available to any other local education agency if it were to submit an approvable application therefor, which the Commissioner determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies, in the manner provided in the second sentence of subsection (a), which the Commissioner determines will need additional funds to carry out approved applications, except that no local educational agency shall receive an amount under this sentence which, when added to the amount available to it under subsection (a), exceeds its entitlement under section 303.

TITLE V—TEACHER CORPS AND TEACHER TRAINING PROGRAMS

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PART B—TEACHER TRAINING PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 531. There are authorized to be appropriated $75,000,000 for the fiscal year 1977 **[**and for each of the fiscal years ending prior to October 1, 1979**]** *and for the fiscal year 1978, and $100,000,000 for the fiscal year 1979*, to carry out the provisions of this part. Of the sums so appropriated for any fiscal year not less than 10 per centum shall be available for each of the programs authorized by sections 532 and 533. *In the event that sums exceeding $50,000,000 are appropriated in any fiscal year for purposes of carrying out this part, programs in each State shall receive grants totaling not less than $250,000 in such fiscal year.*

TEACHER CENTERS

SEC. 532. (a)(1) The Commissioner is authorized to make grants to local educational agencies in accordance with the provisions of this section to assist such agencies in planning, establishing, and operating teacher centers.

(2) For the purpose of this section, the term "teacher center" means any site operated by a local educational agency (or a combination of such agencies) which serve teachers, from public and non-public schools of a State, or an area or community within a State, in which teachers, with the assistance of such consultants and experts as may be necessary, may—

(A) develop and produce curricula designed to meet the educational needs of the persons in the community, area, or State being served, including the use of educational research findings or new or improved methods, practices, and techniques in the development of such curricula; and

(B) provide training to improve the skills of teachers to enable such teachers to meet better the special educational needs of persons such teachers serve, and to familiarize such teachers with developments in curriculum development and educational research, including the manner in which the research can be used to improve their teaching skills.

(b) Each teacher center shall be operated under the supervision of a teacher center policy board, the majority of which is representative of elementary and secondary classroom teachers to be served by such center fairly reflecting the make-up of all schoolteachers, including special education and vocational education teachers. Such board shall also include individuals representative of, or designated by, the school board of the local educational agency served by such center, and at least one representative designated by the institutions of higher education (with departments or schools of education) located in the area.

(c)(1) Any local educational agency *or any consortium of local educational agencies (including statewide programs)* desiring to receive a grant under this section shall make application therefor at such time, in such manner, and containing or accompanied by such information, as the Commissioner may be regulation require. Each application shall be submitted through the State educational agency of the State in which the applicant is located. Each such State agency shall review the application, make comments thereon, and recommend each application the State agency finds should be approved. Only applications so recommended shall be transmitted to the Commissioner for his approval.

(2) Any local educational agency which has submitted an application in accordance with paragraph (1) of this subsection which is dissatisfied with the action of the appropriation State educational

agency may petition the Commissioner to request further consideration by the State educational agency. *The Commissioner shall, upon receipt of such petition, request further consideration by the State educational agency.*

(3) If, subsequent to the expiration of thirty days after the Commissioner's petitioning the State educational agency, such agency has not transmitted such application, then such application shall be transmitted to the Commissioner along with the comments and evaluation of the State educational agency.

(d) In approving any application under this section, the Commissioner shall insure that there is adequate provision for the furnishing of technical assistance to, and dissemination of information derived from, the proposed teacher center by the appropriate State educational agency. Such State agency shall be adequately compensated by the Commissioner for such review of applications, recommendations, submissions, technical assistance, and dissemination services.

Special Projects Act

AN ACT to authorize special projects, surveys, and studies by the Office of Education

PURPOSE

Sec. 2. It is the purpose of this Act to authorize the Commissioner of Education (hereinafter referred to as the "Commissioner") to carry out special projects—

(1) to experiment with new educational and administrative methods, techniques, and practices;

(2) to meet special or unique educational needs or problems; and

(3) to place special emphasis on national education priorities.

CONTRACTING AUTHORITY

Sec. 3. (a) The Commissioner is authorized, during the period beginning July 1, 1975, and ending September 30, 1978, to make contracts with public and private agencies, organizations, associations, institutions, and with individuals in order to carry out the purposes of this Act as set forth in section 2.

(b) In exercising his authority under this section, the Commissioner shall comply with such priorities and preferences as may be expressly provided by law, with respect to this section.

APPROPRIATIONS

Sec. 4. (a)(1) In order to enable the Commissioner to make contracts under section 3, there is authorized, subject to subsection (b), to be appropriated to the Office of Education $200,000,000 for the fiscal year ending June 30, 1976, and each of the two succeeding fiscal years.

(2) Sums appropriated pursuant to paragraph (1) shall, notwithstanding any other provisions of law, unless enacted in express limitation of this paragraph, remain available until expended.

(b)(1) Not later than March 1 of each year, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a plan in accordance with which the Commissioner has determined to expend funds to be appropriated for the succeeding fiscal year. Such plan shall be accompanied by a report describing each contract made during the calendar year preceding that fiscal year under the authority of this Act involving an expenditure in excess of $100,000.

(2)(A) The funds appropriated pursuant to subsection (a), for any fiscal year shall be expended in accordance with the plan submitted for that year pursuant to paragraph (1), unless prior to sixty days after the submission of such plan, either the Committee on Education and Labor of the House of Representatives or the Committee on Labor and Public Welfare of the Senate adopts a resolution disapproving such plan.

(B) If either or both such committees adopts a resolution of disapproval as provided in subparagraph (A), the Commissioner shall, not later than fifteen days after the adoption of any such resolution, submit a new plan in accorrdance with paragraph (1) and subparagraph (A).

Provisions of P.L. 93–380 which relate to the Special Projects Act. (Section numbers are sections of P.L. 93–380.)

Sec. 402 * * *

(a) * * *

(b)(1) In carrying out his functions under section 3 of the Special Projects Act, the Commissioner shall reserve not less than 50 per centum of the sums appropriated pursuant to section 4 of such Act for the purposes given preference under pargraph (3) of this subsection and apportioned in accordance with paragraph (2) of this subsection. With respect to the funds to which this pargraph applies, the Commissioner's authority under such section 3 shall include authority to make grants as well as contracts.

(2) Except as is otherwise provided with respect to section 409, the Commissioner shall apportion an amount for each of the purposes set forth in paragraph (3) which bears the same ratio to the sums reserved pursuant to pargraph (1) as the amount permitted to be expended for each such purpose bears to the aggregate of the amounts permitted to be expended for all such purposes.

(3) The sums reserved pursuant to pargraph (1) shall be expended for programs otherwise authorized by an applicable statute and described in the following subpargraphs:

Education for the Use of the Metric System of Measurement

(A) A program to encourage educational agencies and institutions to prepare students to use the metric system of measurement, as provided in section 403.

Gifted and Talented Children

(B) A program for the education of gifted and talented children through grants to the States for such purposes, as provided in section 404 (except subsection (f) thereof).

Community Schools

(C) A program of grants to local educational agencies to assist them in planning, establishing, expanding, and operating community education programs, as provided in section 405.

Career Education

(D) A program to assess, and to encourage establishment and operation of, career education programs, as provided in section 406.

Consumers' Education

(E) A program of grants and contracts designed to provide consumer education to the public, as provided in section 811 of the Elementary and Secondary Education Act of 1965.

Women's Equity in Education

(F) A program of grants and contracts designed to provide educational equity for women in the United States, as provided in section 408.

Arts in Education Programs

(G) A program of grants and contracts designed to assist and encourage the use of the arts in elementary and secondary school programs as provided in section 409.

(4) No appropriation may be made for any fiscal year for the purposes of section 811 of the Elementary and Secondary Education Act of 1965 or sections 403, 404, 405, 406, 408, and 409 of this Act during which funds are available for the purposes of such sections under the provisions of this subsection.

(c)(1) The amendments made by subsection (a) and the provisions of subsection (b) shall be effective on and after July 1, 1975.

(2) Effective July 1, 1975, title III of the Elementary and Secondary Education Act of 1965 is amended—

(i) by striking out section 305(d);
(ii) by striking out section 306; and
(iii) by striking out section 307(c).

(3) Effective July 1, 1975, section 809 of the Elementary and Secondary Education Act of 1965, is repealed.

EDUCATION FOR THE USE OF THE METRIC SYSTEM OF MEASUREMENT

SEC. 403. (a)(1) The Congress finds that—

(A) the metric system of measurement is in general use in industrially developed nations and its use is increasing;

(B) increased use of such metric system in the United States is inevitable, and such a metric system will become the dominant system of weights and measures in the United States; and

(C) there is no existing Federal program designed to teach children to use such metric system and such a program is necessary if the American people are to adapt to the use of the metric system of weights and measures.

(2) It is the policy of the United States to encourage educational agencies and institutions to prepare students to use the metric system of measurement with ease and facility as a part of the regular education program.

(3) For the purposes of this section, the term "metric system of measurement" means the International System of Units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

(b)(1) The Commissioner shall carry out a program of grants and contracts in order to encourage educational agencies and institutions to prepare students to use the metric system of measurement.

(2) The Commissioner is authorized to make grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private nonprofit agencies, organizations, and institutions to develop and carry out the policy set forth in subsection (a).

(c)(1) Financial assistance under this section may be made available only upon application to the Commissioner. Any such application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it—

(A) provides that the activities and services for which assistance is sought will be administered by, or under the supervision of, the applicant;

(B) describes a program which holds promise of making a substantial contribution toward attaining the purposes of this section;

(C) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application; and

(D) contains such other provisions as the Commissioner determines necessary in order to accomplish the purposes of this title.

(2) An application from a local education agency under this section may be approved only if the State educational agency of the State in which such local agency is located has been notified of the application and has been given a reasonable opportunity to offer recommendations with respect to the approval thereof.

(d) For the purposes of carrying out this section, the Commissioner is authorized to expend $10,000,000 for each of the fiscal years ending prior to July 1, 1978.

GIFTED AND TALENTED CHILDREN

SEC. 404. (a) The Commissioner shall designate an administrative unit within the Office of Education to administer the programs and projects authorized by this section and to coordinate all programs for gifted and talented children and youth administered by the Office.

(b) The Commissioner shall establish or designate a clearinghouse to obtain and disseminate to the public information pertaining to the education of gifted and talented children and youth. The Commissioner is authorized to contract with public or private agencies or organizations to establish and operate the clearinghouse.

(c)(1) The Commissioner shall make grants to State educational agencies and local educational agencies, in accordance with the provisions of this subsection, in order to assist them in the planning, development, operation, and improvement of programs and projects designed to meet the special educational needs of gifted and talented children at the preschool and elementary and secondary school levels.

(2)(A) Any State educational agency or local educational agency desiring to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner determines to be necessary to carry out his functions under this section. Such application shall—

(i) provide satisfactory assurance that funds paid to the applicant will be expended solely to plan, establish, and operate programs and projects which—

(I) are designed to identify and to meet the special educational and related needs of gifted and talented children, and

(II) are of sufficient size, scope, and quality as to hold reasonable promise of making substantial progress toward meeting those needs;

(ii) set forth such policies and procedures as are neecssary for acquiring and disseminating information derived from educational research, demonstration and pilot projects, new educational practices and techniques, and the evaluation of the effectiveness of the program or project in achieving its purpose; and

(iii) provide satisfactory assurance that, to the extent consistent with the number of gifted and talented children in the area to be served by the applicant who are enrolled in nonpublic elementary and secondary schools, provision will be made for the participation of such children.

(B) The Commissioner shall not approve an application under this subsection from a local educational agency unless such application has been submitted to the State educational agency of the State in which the applicant is located and such State agency has had an opportunity to make recommendations with respect to approval thereof.

(3) Funds available under an application under this subsection may be used for the acquisition of instructional equipment to the extent such equipment is necessary to enhance the quality or the effectiveness of the program or project for which application is made.

(4) A State educational agency receiving assistance may carry out its functions under an approved application under this subsection directly or through local educational agencies.

(d) The Commissioner is authorized to make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to institutions of higher education, a program for training personnel engaged or preparing to engage in educating gifted and talented children or as supervisors of such personnel.

(e) The Commissioner is authorized to make grants to institutions of higher education and other appropriate nonprofit institutions or agencies to provide training to leadership personnel for the education of gifted and talented children and youth. Such leadership personnel may include, but are not limited to, teacher trainers, school administrators, supervisors, researchers, and State consultants. Grants under this subsection may be used for internships, with local, State, or Federal agencies or other public or private agencies or institutions.

(f) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the National Institute of Educational shall, in accordance with the terms and conditions of section 405 of such Act, carry out a program of research and related activities relating to the education of gifted and talented children. The Commissioner is authoribed to transfer to the National Institute of Education such sums as may be necessary for the program required by this subsection. As used in the preceding sentence the term "research and related activities" means research, research training, surveys, or demonstrations in the field of education of gifted and talented children and youth, or the dissemination of information derived therefrom, or all of such activities, including (but without limitation) experimental and model schools.

(g) In addition to the other authority of the Commissioner under this section, the Commissioner is authorized to make contracts with public and private agencies and organizations for the establishment and operation of model projects for the identification and education of gifted and talented children, including such activities career education, bilingual education, and programs of education for handicapped children and for educationally disadvantaged children. The total of the amounts expended for projects authorized under this subsection shall not exceed 15 per centum of the total of the amounts expended under this section for any fiscal year.

(h) For the purpose of carrying out the provisions of this section, the Commissioner is authorized to expend not to exceed $12,250,000 for each fiscal year ending prior to July 1, 1978.

COMMUNITY SCHOOLS

SEC. 405. (a) This section may be cited as the "Community Schools Act".

(b) In recognition of the fact that the school, as the prime educational institution of the community, is most effective when the school involves the people of that community in a program designed to fulfill their education needs, and that community education promotes a more efficient use of public education facilities through an extension of school buildings and equipment, it is the purpose of this section to provide educational, recreational, cultural, and other related community services, in accordance with the needs, interests, and concerns of the community, through the establishment of the community education program as a center for such activities in cooperation with other community groups.

(c) For purposes of this section and subparagraph (C) of section 402(b)(3), a "community education program" is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community that center serves in accordance with the needs, interests, and concerns of that community. Nothing in this section shall be construed to prohibit any applicant under this section from carrying out any activity with funds derived from other sources.

(d)(1) In order to carry out the purposes and provisions of this section, the Commissioner is authorized to make grants to State educational agencies and to local educational agencies to pay the Federal share of the cost of planning, establishing, expanding, and operating community education programs.

(2) Fifty percent of the funds made available pursuant to clause (1) of subsection (i) shall be available for grants to State educational agencies. The remainder of such funds shall be available for grants to local educational agencies.

(3) For the purpose of paragraph (1) of this subsection, the Federal share shall be—

(A) 80 per centum of a program to establish a new community education program,

(B) 65 per centum of a program to expand or improve a community education program for the first year in which such program is assisted under this section, and 55 per centum in any fiscal year thereafter, and

(C) 40 per centum of a program to maintain or carry out a community education program.

(4) Any State or local educational agency desiring to receive a grant under this section for any fiscal year shall submit an application to the Commissioner at such time, in such manner, and in such form as the Commissioner shall prescribe by regulation. Each such application shall contain provisions—

(A) assuring that local community colleges, social, recreational, and health groups will be consulted with respect to programs to be offered and facilities to be used for the purpose of this section;

(B) assuring that the applicant will pay from non-Federal sources the remaining costs of carrying out the application; and

(C) containing a description of each community education program for which assistance is sought in sufficient detail to apply the appropriate Federal share specified in clause (3) of this subsection.

The Commissioner shall not approve an application submitted by a local educational agency unless the State educational agency of the State in which that local educational agency is located has been given an opportunity to review, and make comment on, such application.

(e) The Commissioner is authorized to make grants to institutions of higher education to develop and establish, or to expand, programs which will train persons to plan and operate community education programs.

(f)(1) The Commissioner shall establish or designate a clearinghouse to gather and disseminate information received from community education programs, including but not limited to information regarding new programs, methods to encourage community participation, and ways of coordinating community education programs with other community services. The Commissioner is authorized to contract with public or private agencies or organizations to establish and operate the clearinghouse.

(2) The Commissioner shall make available to each community education program such technical assistance and information as the program may require, and such technical assistance shall be coordinated with the national clearinghouse.

(g)(1) There is established, subject to part D of the General Education Provisions Act, in the Office of the Commissioner, a Community Education Advisory Council (referred to in this section as the "Advisory Council") to be composed of eleven members. The members of the Advisory Council shall be appointed by the Secretary.

(2) A substantial number of the members of the Advisory Council shall be persons experienced in the operation of community education programs and the training of such persons. The Council shall include representatives from various disciplines involved in providing services in community school programs.

(3) Appointments to the advisory council shall be completed within three months after enactment of this section.

(4) The Commissioner shall make available to the Advisory Council such staff, information, and other assistance as it may require to carry out its activities.

(5) The Advisory Council shall advise the Commissioner on policy matters relating to the interests of community schools.

(6) In the fiscal year ending June 30, 1975, the Advisory Council shall be responsible for advising the Commissioner regarding the establishment of policy guidelines and regulations for the operation and administration of this section. In addition, the Council shall create a system for evaluation of the programs. The Council shall present to Congress a complete and thorough evaluation of the programs and operation of this section for each fiscal year ending after June 30, 1975.

(h) In approving applications under this section the Commissioner shall insure that there is an equitable geographical distribution of community education programs throughout the United States in both urban and rural areas.

(i) The Commissioner is authorized to expand (1) for the purpose of subsection (d), $15,000,000 for each fiscal year ending prior to July 1, 1978; and (2) for the purposes of subsection (e), $2,000,000 for each fiscal year ending prior to July 1, 1978.

CAREER EDUCATION

SEC. 406. (a) It is the sense of Congress that—

(1) every child should, by the time he has completed secondary school, be prepared for gainful or maximum employment and for full participation in our society according to his or her ability;

(2) it is the obligation of each local educational agency to provide that preparation for all children (including handicapped children and all other children who are educationally disadvantaged) within the school district of such agency; and

(3) each State and local educational agency should carry out a program of career education which provides every child the widest variety of career education options which are designed to prepare for each child for maximum employment and participation in our society according to his or her ability.

(b) It is the purpose of this section to assist in achieving the policies set forth in subsection (a) by—

(1) developing information on the needs for career education for all children;

(2) promoting a national dialogue on career education designed to encourage each State and local educational agency to determine and adopt the approach to career education best suited to the needs of the children served by them;

(3) assessing the status of career education programs and practices, including a reassessment of the stereotyping of career opportunities by race or by sex;

(4) providing for the demonstration of the best of the current career education programs and practices by the development and testing of exemplary programs and practices using various theories, concepts, and approaches with respect to career education;

(5) providing for the training and retraining of persons for conducting career education programs; and

(6) developing State and local plans for implementing career education programs designed to insure that every child has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in our society according to his or her ability.

(c)(1) In order to carry out the policies, purposes, and provisions of **[**this section**]** *the Career Education Incentive Act*, there is established in the Office of Education an Office of Career Education (hereafter in this section referred to as the "Office"). The Office shall be headed by a Director.

(2) The Director of the Office shall report directly to the Commissioner.

(d) For the purposes of this section, the term "career education" means an education process designed—

(1) to increase the relationship between schools and society as a whole;

(2) to provide opportunities for counseling, guidance and career development for all children;

(3) to relate the subject matter of the curricula of schools to the needs of persons to function in society;

(4) to extend the concept of the education process beyond the school into the area of employment and the community;

(5) to foster flexibility in attitudes, skills, and knowledge in order to enable persons to cope with accelerating change and obsolescence;

(6) to make education more relevant to employment and functioning in society; and

(7) to eliminate any distinction between education for vocational purposes and general or academic education.

(e) The Commissioner shall conduct a survey and assessment of the current status of career education programs, projects, curriculums, and materials in the United States and submit to the Congress, not later than May 1, 1976, a report on such survey and assessment. Such report shall include recommendations of the Advisory Council created under subsection (g) for new legislation designed to accomplish the policies and purposes set forth in subsections (a) and (b). In exercising his authority under clauses (ii)(III) and (ii)(V) of section 434 (b)(1)(A) of the General Education Provisions Act, for any fiscal year, the Commissioner shall require State educational agencies and local educational agencies to report on their efforts to prepare students for gainful or maximum employment.

(f)(1) During the period beginning with the enactment of this section and ending September 30, 1978, the Commissioner is authorized to make grants to State and local educational agencies, institutions of higher education, and other nonprofit agencies and organizations to support projects to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models (including models in which handicapped children receive appropriate career education either by participation in regular or modified programs with nonhandicapped children or where necessary in specially designed programs for handicapped children whose handicaps are of such severity that they cannot benefit from regular or modified programs). Grants made under this subsection shall be consistent with the policies set forth in subsection (a) of this subsection.

(2) During the period beginning one year after the enactment of this section and ending September 30, 1977, the Commissioner is authorized to make grants to State educational agencies to enable them to develop State plans for the development and implementation of career education programs in the local educational agencies of the States. Such plans shall be designed to carry out the policies and purposes set forth in subsections (a) and (b).

(g)(1) Subject to part D of the General Education Provisions Act and within ninety days after the enactment of this section, there is established a National Advisory Council for Career Education which shall be composed of—

(A) the Assistant Secretary of Health, Education, and Welfare for Education, the Commissioner of Education, the Director of the Office of Career Education, the Director of the National Institute of Education, the Administrator of the National Center for Education Statistics, the Director of the National Science Foundation, the Chairman of the National Foundation for the Arts, the Chairman of the National Foundation for the Humanities, the Chairman of the National Advisory Council for Vocational Education, all of whom shall serve in a nonvoting ex officio capacity; and

(B) not less than twelve public members broadly representative of the fields of education, the arts, the humanities, the sciences, community services, business and industry, and the general public, a majority of whom shall be engaged in education or education-related professions.

(2) The public members shall be appointed by the Secretary. The Secretary shall select the Chairman from among the public members. The members shall serve for terms of three years with not more than four seats rotating in any one year. The Commissioner shall provide such staff and funds for the Council as deemed necessary and such staff and funds shall be in addition to those provided elsewhere in this title.

(3) The duties of the Council shall be to advise the Commissioner on the implementation of this section and carry out such advisory functions as it deems appropriate, including reviewing the operation of this section and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purposes of career education as prescribed in this section.

(4) The Council with the assistance of the Commissioner shall conduct a survey and assessment of the current status of career education programs, projects, curricula, and materials in the United States and submit to Congress, not later than May 1, 1976, a report on such survey and assessment. Such report shall include recommendations of the Council for new legislation designed to accomplish the policies and purposes set forth in subsections (a) and (b).

(h) For the purpose of carrying out the provisions of this section, the Commissioner is authorized to expend not to exceed $15,000,000 for each fiscal year ending prior to July 1, 1978.[1]

WOMEN'S EDUCATIONAL EQUITY

SEC. 408. (a) This section may be cited as the "Women's Educational Equity Act of 1974."

(b)(1) The Congress hereby finds and declares that educational programs in the United States (including its possessions), as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society.

(2) It is the purpose of this section to provide educational equity for women in the United States.

(c) As used in this section, the term "Council" means the Advisory Council on Women's Educational Programs.

(d)(1) The Commissioner is authorized to make grants to, and enter into contracts with, public agencies and private nonprofit organizations and with individuals for activities designed to carry out the purposes of this section at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. These activities shall include—

(A) the development, evaluation, and dissemination by the applicant of curricula, textbooks, and other educational materials related to educational equity;

(B) preservice and inservice training for educational personnel including guidance and counseling with special emphasis on programs and activities designed to provide educational equity;

(C) research, development, and educational activities designed to advance educational equity;

(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to assure educational equity;

(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women;

(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration.

(2) A grant may be made and a contract may be entered into under this section only upon application to the Commissioner, at such time, in such form, and containing or accompanied by such information as the Commissioner may prescribe. Each such application shall—

(A) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

(B) describe a program for carrying out one of the purposes set forth in subsection (d)(1) which holds promise of making a substantial contribution toward attaining such purposes; and

(C) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application.

(3) Nothing in this section shall be construed as prohibiting men from participating in any programs or activities assisted under this section.

(e) In addition to the authority of the Commissioner under subsection (d), the Commissioner shall carry out a program of small grants, not to exceed $15,000, each, in order to support innovative approaches to achieving the purposes of this section; and for that purpose the Commissioner is authorized to make grants to public and private nonprofit agencies and to individuals.

(f)(1) There is established in the Office of Education a National Advisory Council on Women's Educational Programs. The Council shall be composed of—

(A) seventeen individuals, some of whom shall be students, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals broadly representative of the general public who, by virtue of their knowledge or experience, are versed in the role and status of women in American society;

(B) the Chairman of the Civil Rights Commission;

(C) the Director of the Women's Bureau of the Department of Labor; and

(D) the Director of the Women's Action Program of the Department of Health, Education, and Welfare.

The Council shall elect its own Chairman from among the members indicated in clause A.

(2) The term of office of each member of the Council appointed under clause (A) of paragraph (1) shall be three years, except that—

(A) the members first appointed under such clause shall serve as designated by the President, six for a term of one year, five for a term of two years, and six for a term of three years; and

(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remeainder of such term.

(3) The Council shall—

(A) advise the Commissioner with respect to general policy matters relating to the administration of this section;

(B) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women;

(C) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to this section, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(D) develop criteria for the establishment of program priorities.

(E) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

(F) disseminate information concerning the activities of the Council under this section.

(4) From the sums available for the purposes of this section, the Commissioner is authorized and directed to conduct a national, comprehensive review of sex discrimination in education, to be submitted to the Council not later than twenty months after the date of enactment of this section. The Council shall review the report of the Commissioner and shall make such recommendations, including recommendations for additional legislation, as it deems advisable.

(5) The provisions of part D of the General Education Provisions Act shall apply with respect to the Council established under this subsection.

(g) The Commissioner is directed, at the end of each fiscal year, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this section, and to provide for the distribution of this report to all interested groups and individuals, including he Congress, from funds authorized under this section. After receiving the report from the Commissioner, the Council shall evaluate the programs and projects assisted under this section and include such evaluation in its annual report.

(h) For the purpose of carrying out this section, the Commissioner is authorized to expend not to exceed $30,000,000 for each fiscal year prior to July 1, 1978.

ELEMENTARY AND SECONDARY SCHOOL EDUCATION IN THE ARTS

Sec. 409. (a) The Commissioner shall, during the period beginning after September 30, 1974 and ending on September 30, 1978, through arrangements made with the John F. Kennedy Center for the Performing Arts, carry out a program of grants and contacts to encourage and assist State and local educational agencies to estblish nd conduct programs in which the arts are an integral part of elementary and secondary school programs. Not less than $750,000 shall be available for the purposes of this section during any fiscal year during the period for which provision is made in the preceding sentence.

(b) Notwithstanding the provisions of section 402(b)(3)(G) and section 402(b)(4) of this Act, and in addition to sums reserved under that section and made available under subsection (a) of this section, there are authorized to be appropriated $2,000,000 for fiscal year 1978 to carry out the purposes of this section.

PART I—THE EDUCATION DIVISION

GENERAL PROVISIONS CONCERNING EDUCATION

SHORT TITLE; APPLICABILITY; DEFINITIONS; APPROPRIATIONS

SEC. 400. (a) This title may be cited as the "General Education Provisions Act."

(b) Except where otherwise specified, the provisions of this title shall apply to any program for which an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law.

(c)(1) For the purposes of this title, the term—

(A) "applicable program" means any program to which this title is, under the terms of subsection (b), applicable;

(B) "applicable statute" means—

(i) the Act or the title, part or section of an Act, as the case may be, which authorizes the appropriation for an applicable program;

(ii) this title; and

(iii) any other statute which under its terms expressly controls the administration of an applicable program;

(C) "Assistant Secretary" means the Assistant Secretary of Health, Education, and Welfare for Education;

(D) "Commissioner" means the Commissioner of Education;

(E) "Director" means the Director of the National Institute of Education; and

(F) "Secretary" means the Secretary of Health, Education, and Welfare.

(2) Nothing in this title shall be construed to affect the applicability of the Civil Rights Act of 1964 to any program subject to the provisions of this title.

(3) No Act making appropriations to carry out an applicable program shall be considered an applicable statute.

(d) Except as otherwise limited in this title, there are authorized to be appropriated for any fiscal year such sums as may be necessary to carry out the provisions of this title.

(e)(1) The aggregate of the appropriations to the agencies in the Education Division and to the Office of the Assistant Secretary for any fiscal year shall not exceed the limitations set forth for that fiscal year in subparagraph (2).

(2)(A) Except as is provided in subparagraph (B), the appropriations to which paragraph (1) applies—

(i) shall not exceed $7,500,000,000 for the fiscal year ending June 30, 1975, $8,000,000,000 for the fiscal year ending June 30, 1976, and $9,000,000,000 for the fiscal year ending June 30, 1977; and

(ii) shall not exceed such amounts as may be authorized by the law and limited by this subparagraph.

(B) The limitations set forth in subparagraph (A) shall not apply—

(i) to uncontrollable expenditures under obligations created under part B of title IV of the Higher Education Act of 1965, parts C and D of title VII of such Act, and the Emergency Insured Student Loan Act of 1969; and

(ii) to any other expenditure under an obligation determined by the Commissioner pursuant to, or in accordance with, law to be an uncontrollable expenditure of the Office of Education.

Part A—Education Division of the Department of Health, Education, and Welfare

THE EDUCATION DIVISION

Sec. 401. (a) There shall be, within the Department of Health, Education, and Welfare, an Education Division, composed of the agencies listed in subsection (b), which shall be headed by the Assistant Secretary.

(b)(1) The Education Division shall be composed of the following agencies:

(A) The Office of Education; and

(B) The National Institute of Education.

(2) In the Office of the Assistant Secretary there shall be a National Center for Education Statistics.

ASSISTANT SECRETARY FOR EDUCATION

Sec. 402. (a) There shall be in the Department of Health, Education, and Welfare an Assistant Secretary for Education, who shall be appointed by the President by and with the advice and consent of the Senate. The Assistant Secretary for Education shall be compensated at the rate specified for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The Assistant Secretary shall be the principal officer in the Department to whom the Secretary shall assign responsibility for the direction and supervision of the Education Division.

(c)(1)(A)(i) In order to eliminate excessive detail and unnecessary and redundant information requests and to achieve the collection of information in the most efficient and effective possible manner, the Assistant Secretary shall appoint or designate a Deputy Assistant Secretary for Paperwork Coordination and Reduction to coordinate the collection of information and data acquisition activities of all Federal agencies, (I) whenever such activities request information from educational agencies or institutions, or (II) whenever the purpose of such activities is to request information needed for the management of or the formulation of policy related to Federal education programs.

(ii) The Assistant Secretary shall appoint a Federal Education Data Acquisition Council, consisting of three members representing the public and representatives of the major agencies which collect and use educational data, as designated by each such agency, including one representative each of the Office of Management and Budget and of the Office of Federal Statistical Policy and Standards. The members representing the public shall be appointed for nonrenewable terms. The Council shall advise and assist the Deputy Assistant Secretary with respect to the improvement, development and coordination of

Federal educational information and data acquisition activities and shall hear appeals from the decisions of the Deputy Assistant Secretary if the head of a dissatisfied agency seeks to make such an appeal. In the case of any such appeal, the Council shall conduct an impartial hearing and shall render a final decision. The Council shall meet regularly during the year and shall be chaired by an individual from an agency which has expertise in data collection but which undertakes no major data collection of education data.

(B) For the purposes of this subsection, the term—

(i) "information" has the meaning given it by section 3502 of title 44, United States Code;

(ii) "Federal agency" has the meaning given it by section 3502 of title 44; and

(iii) "educational agency or institution" means any public or private agency or institution offering educational programs.

(C)(i) The Deputy Assistant Secretary shall review and coordinate all collection of information and data acquisition activities described in paragraph (1)(A)(i) of this subsection, in accordance with procedures approved by the Assistant Secretary and the Secretary. Such procedures shall be designed in order to enable the Deputy Assistant Secretary to determine whether proposed collection of information and data acquisition activities are excessive in detail, unnecessary, redundant, ineffective, or excessively costly, and, if so, to advise the heads of the relevant Federal agencies and to withhold approval of such proposed activities.

(ii) No collection of information or data acquisition activity subject to such procedures shall be subject to any other review, coordination, or approval procedure outside of the relevant Federal agency, except as hereinafter provided. The Deputy Assistant Secretary shall inform the Director of the Office of Management and Budget of all proposed collection of information and data acquisition activities subject to such procedures within a sufficient time in order to meet the notice deadline prescribed for comment by clause (C) of subsection (2). If, within ten days of such notice, the Director notifies the Deputy Assistant Secretary that a significant data acquisition policy issue is involved in any such collection of information or data acquisition activity, such activity shall be reviewable in accordance with the rules and regulations established pursuant to section 3509 of title 44, United States Code.

(iii) The procedures established by the Deputy Assistant Secretary shall include a review of plans for evaluations and for research when such plans are in their preliminary stages, in order to give advice to the heads of Federal agencies regarding the data acquisition aspects of such plans.

(2)(A) The Deputy Assistant Secretary shall assist each Federal agency in performing the review and coordination required by this subsection and shall require of each agency a plan for each collection of information and data acquisition activity, which shall include—

(i) a detailed justification of how information once collected will be used;

(ii) the methods of analysis which will be applied to such data;

(iii) the timetable for the dissemination of the collected data; and

(iv) an estimate of the costs and man-hours required by each educational agency or institution to complete the request and an estimate of costs to Federal agencies to collect, process, and analyze the information, based upon previous experience with similar data or upon a sample of respondents.

(B) In performing the review and coordination required by this subsection, the Deputy Assistant Secretary shall assure that—

(i) no information will be required of any educational agency or institution unless the plans for the acquisition of that information have been publicly announced by the February 15 preceding the beginning of the school year for which the information will be requested, unless there is an urgent need for this information or a very unusual circumstance exists regarding it;

(ii) sampling techniques, instead of universal responses, will be used wherever possible with a special consideration being given to the burden being placed upon small school districts, colleges, and other educational agencies and institutions; and

(iii) no request for information or data will be approved if such information or data exists in the same or a similar form in the automated indexing system required to be developed pursuant to paragraph (4).

(C) Each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a thirty-day period before approval by the Deputy Assistant Secretary to comment to the Deputy Assistant Secretary on the collection of information and data acquisition activity. The exact data instruments for each proposed activity shall be available to the public upon request during this comment period.

(D) No changes may be made in the plans for the acquisition of that information or data, except changes required by the Deputy Assistant Secretary, as a result of the review described in this subsection, after such plans have been finally approved under this subsection, unless the changed plans go through the same approval process.

(E) Nothing in this subsection shall be construed to interfere with the enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provision of Federal law.

(3) The Deputy Assistant Secretary shall, insofar as practicable, and in accordance with the provisions of this Act, provide educational agencies and institutions and other Federal agencies, pursuant to the requirement of subsection (f)(2)(A), with summaries of information collected and the data acquired by Federal agencies unless such data were acquired on a confidential basis.

(4) The Deputy Assistant Secretary shall, insofar as practicable—

(A) develop standard definitions and terms to be used by all Federal agencies in dealing with education-related information and data acquisition requests;

(B) develop an automated indexing system for cataloging all available data;

(C) establish uniform reporting dates among Federal agencies for the information and data acquisitions required after review under this section;

(D) publish annually a listing of Federal agencies and summaries of the amount of data requests resulting from each such agency and for the programs administered in the Education Division, publish a listing annually of each such program with its appropriation and with the data burden resulting from such programs; and

(E) require the Federal agency proposing the collection of information or data acquisition activity to identify in its data instrument the legislative authority specifically requiring such collection, if any, and require the responding educational agency or institution to make the same identification if it in turn collects such information or data from other agencies or individuals.

(F) have the authority to waive the requirements of this subsection for individual research and evaluation studies, which are not designed for individual project monitoring or review, provided that—

(i) the study shall be of a non-recurring nature;

(ii) any educational agency or institution may choose whether or not to participate, and that any such decision shall not be used by and Federal agency for purposes of individual project monitoring or funding decesions;

(iii) the man-hours necessary for educational agencies and institutions to respond to requests for information or data shall not be excessive, and the requests shall not be excessive in detail, unnecessary, redundant, ineffective, or excessively costly; and

(iv) the Federal agency requesting inforamtion or data has announced the plans for the study in the Federal Register.

The Deputy Assistant Secretary shall inform the relevant agency concerning the waiver decision within thirty days following such an announcement, or the study shall be deemed waived and may proceed. Any study waived under the provisions of this paragraph shall be subject to no other review than that of the agency requesting information or data from educational agencies or institutions.

(5) The Assistant Secretary shall submit a report to the Congress whenever he determines it necessary, but no later than once every three years, describing the implementation of this subjection. Such report shall contain recommendations for amendments to Federal laws which in the opinion of the Deputy Assistant Secretary and Assistant Secretary are imposing undue burdens on educational agencies and institutions, and such recommendations shall not be subject to any review by any Federal agency outside the Education Division.

(6)(A) The Deputy Assistant Secretary is authorized to make grants from sums appropriated pursuant to this subsection to State educational agencies, including State agencies responsible for postsecondary education for the development or improvement of their computer data systems.

(B) Any such agency is eligible for a grant of funds under this subsection if—

(i) the agency agrees to use such funds for the development or improvement of its management information system and agrees to coordinate all data collection for Federal programs administered by the agency through such a system; and

(ii) the agency agrees to provide funds to local educational agencies and institutions of higher education for the development or improvement of management information systems when such grants are deemed necessary by the agency.

(7) For the purpose of carrying out this subsection—

(A) there are authorized to be appropriated for salaries and expenses the sums of $600,000 for fiscal year 1979, $1,000,000 for fiscal year 1980, and $1,200,000 for each of the fiscal years 1981, 1982, and 1983;

(B) there are authorized to be appropriated for grants under paragraph (6) the sums of $5,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, and $50,000,000 for each of fiscal years 1981, 1982, and 1983; and

(C) the sums appropriated according to subparagraphs (A) and (B) shall be appropriated as separate line items.

THE OFFICE OF EDUCATION

SEC. 403. (a) There shall be an Office of Education (hereinafter in this section referred to as the 'Office') which shall be the primary agency of the Federal Government responsible for the administration of programs of financial assistance to educational agencies, institutions, and organizations. The Office shall have such responsibilities and authorities as may be vested in the Commissioner by law or delegated to the Commissioner in accordance with law.

(b) The Office shall be headed by the Commissioner of Education who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be subject to the direction and supervision of the Secretary.

(c)(1) The Office shall, consistent with such organization thereof which is provided by law, be divided into bureaus, and such bureaus shall be divided into divisions as the Commissioner determines appropriate.

(2)(A) There shall be regional offices of the Office established in such places as the Commissioner, after consultation with the Assistant Secretary, shall determine. Such regional offices shall carry out such functions as are specified in subparagraph (B).

(B) The regional offices shall serve as centers for the dissemination of information about the activities of the agencies in the Education Division and provide technical assistance to State and local educational agencies, institutions of higher education, and other educational agencies, institutions, and organizations and to individuals and other groups having an interest in Federal education activities.

(C) The Commissioner shall not delegate to any employee in any regional office any function which was not carried out, in accordance with regulations effective prior to June 1, 1973, by employees in such offices unless the delegation of such function to employees in regional offices is expressly authorized by law enacted after the enactment of the Education Amendments of 1974.

(3) The Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives not later than February 1 of each year a report on the personnel needs and assignments of the Office.

Such report shall include a description (A) of the manner in which the Office is organized and the personnel of the Office are assigned to the various functions of that agency and (B) of personnel needs of that agency in order to enable it to carry out its functions, as authorized by law.

FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 404. (a) Subject to the provisions of subsection (b), the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experimental learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

(b) No grant shall be made or contract entered into under subsection (a) for a project or program with any institution of postsecondary education unless it has been submitted to each appropriate State Commission established under section 1202 of the Higher Education Act of 1965, and an opportunity afforded such Commission to submit its comments and recommendations to the Secretary.

(c) For the purposes of this section, the authority granted to the Commissioner in part D of this Act shall apply to the Secretary.

(d) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this section who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classfication and General Schedule pay rates.

(e) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for each succeeding fiscal year ending prior to October 1, 1979, for the purposes of this section.

NATIONAL INSTITUTE OF EDUCATION

SEC. 405. (a) (1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not yet attained that objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) (1) In order to carry out the policy set forth in subsection (a), there is established the National Institute of Education (hereinafter referred to as the "Institute") which shall consist of a National Council on Educational Research (referred to in this section as the "Council") and a Director of the Institute (hereinafter referred to as the "Director"). The Institute shall have only such authority as may be vested therein by this section.

(2) The Institute shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Institute on the following priority research and development needs—

(A) improvement in student achievement in the basic educational skills, including reading and mathematics;

(B) overcoming problems of finance, productivity, and management in educational institutions;

(C) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for students of limited English-speaking ability, women, and students who are socially, economically, or educationally disadvantaged;

(D) preparation of youths and adults for entering and progressing in careers; and

(E) improved dissemination of the results of, and knowledge gained from, educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge.

(c)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate. A majority of the members of the Council (including ex officio members) shall constitute a quorum. The Chairman of the Council shall be designated from among its appointed members by the President. Ex officio members shall not have a vote on the Council. The members of the Council shall be appointed so that the Council shall be broadly representative of the general public; of the education professions, including practitioners and researchers; and of the various fields of education, including preschool, elementary and secondary, postsecondary, continuing, vocational, special, and compensatory education.

(2) The term of office of the members of the Council (other than ex officio members) shall be three years, except that (A) the members first taking office shall serve as designated by the President, five for terms of three years, five for terms of two years, and five for terms of one year, (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and (C) the term of office of each member shall expire on September 30 of the year in which such term would otherwise expire, unless a successor to such member has not been appointed and confirmed by the Senate by such date, in which case such member shall continue to serve until a successor has been appointed and confirmed. Any appointed member who has been a member of the Council for six consecutive years shall thereafter be ineligible for appointment to the Council during the two-year period following the expiration of such sixth year.

(3) The Council shall—

(A) establish general policies for, and review the conduct of, the Institute;

(B) advise the Assistant Secretary and the Director of the Institute on development of programs to be carried out by the Institute;

(C) present to the Assistant Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

(D) conduct such studies as may be necessary to fulfill its functions under this section;

(E) prepare an annual report to the Assistant Secretary on the current status and needs of educational research in the United States;

(F) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (i) which shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year; and

(G) meet at the call of the Chairman, except that it shall meet (i) at least four times during each fiscal year, or (ii) whenever one-third of the members request in writing that a meeting be held.

The Director shall make available to the Council such information and assistance as may be necessary to enable the Council to carry out its functions. The Council may employ, without the approval of the Director, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, not to exceed seven technical and professional employees, as the Council deems necessary to carry out its functions.

(d)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers and authorities as the Council, subject to the general supervision of the Assistant Secretary, may prescribe. The Director shall be responsible to the Assistant Secretary and shall report to the Secretary through the Assistant Secretary and not to or through any other officer of the Department of Health, Education, and Welfare. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him.

(2)There shall be a Deputy Director of the Institute (referred to in this section as the "Deputy Director") who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director and exercise such powers and authorities as the Director may prescribe. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the Geenral Schedule under section 5108 of title 5, United States Code.

(e)(1) In arder to carry out the objectives of the Institute, the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research; collection, dissemination, or training through grant, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this subsection, the term "educational research" includes research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education).

(2) Funds appropriated pursuant to subsection (b) for any fiscal year may be expended on projects and activities to disseminate (A)

information on the results of educational research and development; and (B) other educational information. Projects and activities funded under this paragraph may include cooperative and jointly funded arrangements for such dissemination utilizing individuals who may be designated as "Education Extension Agents." Employment opportunities at the local level which are generated and funded through projects and activities carried out under the preceding sentence of this paragraph shall be made avaliable to residents of the area to be served, if any such residents are qualified for, and apply for, such employment.

(3) The Director may establish and maintain research fellowships in the Institute, with such stipends and allowances, including travel and subsistence expenses, as the Director may deem necessary to procure the assistance of highly qualified research fellows from the United States and abroad.

(4) Not less than 90 per centum of the funds appropriated pursuant to subsection (h) for any fiscal year shall be expended to carry out this section through grants or contracts with qualified public or private agencies and individuals.

(5) The Director may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service and may compensate without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical or professional employees of the Institute as he deems necessary to accomplish its functions and also appoint and compensate without regard to such provisions not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Institute.

(f)(1) In carrying out the functions of the Institute under this section, the Director shall, in accordance with the provisions of this subsection, make grants to, and enter into contracts with—

(A) regional educational laboratories established by public agencies or private nonprofit organizations; and

(B) research and development centers established by institutions of higher education or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development.

(2) No grants shall be made and no contract entered into under this subsection unless—

(A) proposals for assistance under this subsection are solicited from regional educational laboratories and research and development centers by the Director;

(B) proposals for such assistance are developed by the regional educational laboratories and the research and development centers in consultation with the Director;

(C) proposals are submitted in an application, containing or accompanied by such information as is essential to carry out the provisions of this section, including assurances that the laboratory or center involved will—

(i) be responsible for the conduct of the research and development activities;

(ii) prepare a long-range plan relating to the conduct of such research and development activities;

(iii) ensure that information developed as a result of such research and development activities, including new educational methods, practices, techniques, and products, be disseminated;

(iv) provide technical assistance to appropriate educational agencies and institutions; and

(v) to the extent practicable, provide training for individuals, emphasizing training opportunities for women and members of minority groups, in the use of new educational methods, practices, techniques, and products developed in connection with such activities; and

(D) the Director determines that the proposed activities will be consistent with the education research and development program and dissemination activities which are being conducted by the Institute.

(3)(A) The Director shall establish a Panel for the Review of Laboratory and Center Operations composed of not less than 10 members nor more than 20 members who shall be appointed by the Direcotr from written recommendations submitted by educational laboratories and research and development centers which have submitted applications under the provisions of this subsection, and by associations of professionals, commercial, scholarly, and educational associations, particularly associations or organizations engaged in educational research.

(B) The Panel shall—

(i) review, and prepare recommendations on, initial long-range plans submitted under paragraph (2)(C)(ii);

(ii) review the operation of the laboratories and centers receiving assistance under this subsection and make recommendations for the improvement and continuation of individual laboratories and centers and for the support of new laboratories and centers; and

(iii) not later than January 1, 1979, submit a final report to the Director and to the Congress containing such recommendations as the Panel considers appropriate and such interim reports as the Panel considers appropriate.

(C) Each member of the Panel who is not an officer or employee of the United States shall, while engaged in the business of the Panel, be entitled to receive compensation at not to exceed the daily rate specified at the time of such service for Grade GS–18 under section 5332 of title 5, United States Code, including traveltime. While so serving on the business of the Panel away from his home or regular place of business, each such member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons intermittently employed in the Government service.

(D) The Director, for the use of the Panel, and pursuant to the recommendations of the Panel, is authorized—

(i) to appoint, without regard to the provisions of title 5, United States Code, governing appointments in competitive service, and fix the compensation for, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general pay rates, such professional, technical, and clerical personnel as may be necessary; and

(ii) to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(4) No regional educational laboratory or research and development center receiving assistance under this subsection shall by reason of the receipt of such assistance be eligible to receive any other assistance from the Institute authorized by law.

(g)(1) There is established within the Institute a Federal Council on Educational Research and Development (hereinafter in this subsection referred to as the "Federal Council").

(2) The Federal Council shall be composed of representatives of Federal agencies engaged in research and development relating to education, and shall include, but not be limited to, a representative designated by the Secretary of Defense, a representative designated by the Secretary of Labor, the Director of the National Institutes of Education, the Director of the National Institute of Health, the Director of the National Science Foundation, the Director of the Office of Child Development of the Department of Health, Education, and Welfare, and the Commissioner of Education.

(3) The President shall designate the Director of the Institute to be the Chairman of the Federal Council.

(4) The President shall appoint additional representatives of Federal agencies and may alter the membership of the Federal Council from time to time as he considers necessary to met changes in Federal programs or in the organization of the executive branch of the Federal Government.

(5) The Federal Council shall—

(A) advise, and consult with, the Director of the Institute with respect to major problems arising in connection with carrying out the purposes of the Institute;

(B) promote coordination between the programs and activities of the Institute and related programs and activities of other Federal agencies, including the joint support of activities to the extent such support is appropriate;

(C) make an annual report to the Congress and the President on the status of educational research and development in the United States, including (i) a catalog of federally assisted programs in educational research and development; (ii) a report of the most significant findings of such research and development; and (iii) recommendations with respect to the manner in which such Federal research and development efforts may be improved; and

(D) make recommendations to the Congress and the President with respect to effective means for the dissemination throughout the United States of information relating to educational research and development, and carry out an assessment of existing efforts used by Federal agencies for the dissemination of such information.

(h)(1) In conducting educational research under subsection (e) which deals with specific education programs or the target populations of such programs, the Director shall consult with the appropriate administrators of such programs within appropriate Federal agencies.

(2) The head of any Federal agency which conducts educational research or provides financial assistance for such research shall consult with the Director with respect to the design of programs of such research.

(i) Where funds are advanced for a single project by more than one Federal agency for the purposes of this section, the National Institute of Education may act for all in administering the funds advanced.

(j) There are hereby authorized to be appropriated, without fiscal year limitations, $550,000,000, in the aggregate, for the period beginning July 1, 1972, and ending June 3, 1975, to carry out the functions of the Institute. Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection until expended. There are also authorized to be appropriated for such purpose $100,000,000 for fiscal year 1977 and $200,000,000 for each of fiscal years 1978 and 1979.

(k)(1) In addition to other responsibilities of the Institute under this section, the Institute shall carry out, by grant to or cooperative arrangement with a nonprofit education organization, a National Assessment of Educational Progress which shall have as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, and communication. Such a National Assessment shall—

(A) collect and report at least once every five years data assessing the performance of students at various age or grade levels in each of the areas of reading, writing, and mathematics;

(B) report periodically data on changes in knowledge and skills of such students over a period of time;

(C) conduct special assessments of other educational areas, as the need for additional national information arises; and

(D) provide technical assistance to State educational agencies and to local educational agencies on the use of National Assessment objectives, primarily pertaining to the basic skills of reading, mathematics, and communication, and on making comparisons of such assessments with the National profile and change data developed by the National Assessment.

(2)(A) The education organization through which the Institute carries out the National Assessment shall be responsible for overall management of the National Assessment. Such organization shall delegate authority to design and supervise the conduct of the National Assessment to an Assessment Policy Committee established by such organization. The Assessment Policy Committee shall be composed of—

(i) five members appointed by the education organization of whom two members shall be representatives of business and industry and three members shall be representatives of the general public, and

(ii) twelve members appointed by the education organization from the categories of membership specified in subparagraph (B).

(B) Members of the Assessment Policy Committee appointed in accordance with division (ii) of subparagraph (A) shall be—

(i) one chief State school officer;
(ii) two State legislators;
(iii) two school district superintendents;
(iv) one chairman of a State board of education;
(v) one chairman of a local school board;
(vi) one Governor of a State; and
(vii) four classroom teachers.

(C) The Director of the Institute shall serve as an ex efficio member of the Assessment Policy Committee. The Director shall also appoint a member of the National Council on Education Research to serve as a nonvoting member of the Assessment Policy Committee.

(D) Members appointed in accordance with divisions (i) and (ii) of subparagraph (A) shall be appointed for terms of three years, except that (i) in the case of members appointed for fiscal year 1979, one third of the membership shall be appointed for terms of one year each and one third shall be appointed for terms of two years each, and (ii) appointments to fill vacancies shall be for such terms as remain unexpired. No member shall be appointed to serve more than two consecutive terms.

(3) The Assessment Policy Committee established by paragraph (2) shall be responsible for the design of the National Assessment, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of assessment results, and studies to evaluate and improve the form and utilization of the National Assessment.

(4) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, subject matter specialists, local school administrators, parents, and concerned members of the general public. All items selected for use in the assessment shall be reviewed to exclude items which might reflect racial, sex, cultural, or regional bias.

(5) Participation in the National Assessment by State and local educational agencies selected as part of a sample of such agencies shall be voluntary.

(6) The Director of the Institute shall provide for a review of the National Assessment at least once every three years. This review shall provide an opportunity for public comment on the conduct and usefulness of National Assessment and shall result in a report to the Congress and to the nation on the findings and recommendations, if any, stemming from the review.

(7) There are authorized to be appropriated $10,500,000 for each fiscal year ending prior to October 1, 1983, to carry out the provisions of this subsection.".

NATIONAL CENTER FOR EDUCATION STATISTICS

SEC. 406. (a) There is established, within the Office of the Assistant Secretary, a National Center for Education Statistics (hereafter in this section referred to as the "Center"). The Center shall be headed by an Administrator who shall be appointed by the Assistant Secretary in accordance with the provisions of title 5, United States Code, relating to appointments in the competitive service.

(b) The purpose of the Center shall be to collect and disseminate statistics and other data related to education in the United States and in other nations. The Center shall—

(1) collect, collate, and, from time to time, report full and complete statistics on the conditions of education in the United States;

(2) conduct and publish reports on specialized analyses of the meaning and significance of such statistics;

(3) assist State and local educational agencies in improving and automating their statistical and data collection activities;

(4) review and report on educational activities in foreign countries; and

(5) conduct a continuing survey of institutions of higher education and local educational agencies to determine the demand for, and the availability of, qualified teachers and administrative personnel, especially in critical areas within education which are developing or are likely to develop, and assess the extent to which programs administered in the Education Division are helping to meet the needs identified as a result of such continuing survey.

(c)(1) There shall be an Advisory Council on Education Statistics which shall be composed of 7 members appointed by the Secretary and such ex officio members as are listed in subparagraph (2). Not more than 4 of the appointed members of the Council may be members of the same political party.

(2) The ex officio members of the Council shall be—

(A) the Commissioner of Education,
(B) the Director of the National Institute of Education,
(C) the Director of the Census, and
(D) the Commissioner of Labor Statistics.

(3) Appointed members of the Council shall serve for terms of 3 years, as determined by the Secretary, except that in the case of initially appointed members of the Council, they shall serve for shorter terms to the extent necessary that the terms of office of not more than 3 members expire in the same calendar year.

(4) The Assistant Secretary shall serve as the non-voting presiding officer of the Council.

(5)(A) The Council shall meet at the call of the presiding officer, except that it shall meet—

(i) at least four times during each calendar year; and

(ii) in addition, whenever three voting members request in writing that the presiding officer call a meeting.

(B) Six members of the Council shall constitute a quorum of the Council.

(6) The provisions of section 448(b) of part D of this title shall not apply to the Council established under this subsection.

(7) The Council shall review general policies for the operation of the Center and shall be responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

(d)(1) The Assistant Secretary shall, not later than June 1 of each year, submit to the Congress an annual report which—

(A) contains a description of the activities of the Center during the then current fiscal year and a projection of its activities during the succeeding fiscal year;

(B) sets forth estimates of the cost of the projected activities for such succeeding fiscal year;

(C) includes a statistical report on the condition of education in the United States during the two preceding fiscal years and a projection, for the three succeeding fiscal years, of estimated statistics related to education in the United States; and

(D) clearly sets forth areas of critical need for additional qualified education personnel in local education agencies and, after discussion and review by the Advisory Council on Education Statistics, identifies priorities within projected areas of need, and includes recommendations of the Council with respect to the most effective manner in which the Nation and the Federal Government may address such needs.

(2) The Center shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this section. This subparagraph shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies receiving grants from or having contracts with the Federal Government.

(3) The Center shall compile and publish, no later than the end of each fiscal year, a composite profile of each State indicating the degree to which each State equalizes the resources available to, and expenditures by, the local educational agencies in that State. Such profiles shall include a summary indicating the degree of equalization among the States. In addition, such profiles shall include a description of—

(A) disparities in expenditures per pupil by local educational agencies within and among States;

(B) disparities in wealth neutrality based on an analysis of relative tax yields and tax efforts and the degree to which individual educational agencies do not receive the same tax yield from the same tax effort; and

(C) such other measures of comparison as may be appropriate, including a consideration of price differentials and pupil-teacher ratios.

(e) In order to carry out the objectives of the Center, the Assistant Secretary is authorized, either directly or by grant or contract, to carry out the purposes set forth in subsection (b), and for that purpose the Assistant Secretary is authorized to make grants to, and contracts with public and private institutions, agencies, organizations and individuals.

(f)(1)(A) The Center is authorized to furnish transcripts or copies of tables and other statistical records of the Office of Education, the Assistant Secretary, and the National Institute of Education to, and to make special statistical compilations and surveys for, State or local officials, public and private organizations, or individuals. The Center shall furnish such special statistical compilations and surveys as the Committees on Labor and Public Welfare and on Appropriations of the Senate and the Committees on Education and Labor and on Appropriations of the House of Representatives may request. Such statistical compilations and surveys, other than those carried out pursuant to the preceding sentence, shall be made subject to the payment of the actual or estimated cost of such work. In the case of nonprofit organizations or agencies, the Assistant Secretary may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the Assistant Secretary: *Provided*, That the purposes of such projects are otherwise authorized by law.

(B) All funds received in payment for work or services enumerated under subparagraph (A) shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.

(2)(A) The Center shall participate with other Federal agencies having a need for educational data in forming a consortium for the purpose of providing direct joint access with such agencies to all educational data received by the Center through automated data processing. The Library of Congress General Accounting Office, and the Committees on Labor and Public Welfare and Appropriations of the Senate and the Committees on Education and Labor and Appropriations of the House of Representatives shall, for the purposes of this subparagraph, be considered Federal agencies.

(B) The Center shall, in accordance with regulations published for the purpose of this paragraph, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for purposes of research and acquiring statistical information.

(3) The Commissioner and the National Institute of Education are directed to cooperate with Center and make such records and data available to the Center as may be necessary to enable the Center to carry out its functions under this subsection.

[(g)(1)(A) In order to eliminate excessive detail and unnecessary or redundant information requests, the Secretary and the Commissioner shall, in accordance with the provision of this subsection, coordinate the collection of information and data acquisition activities of the Education Division and the Office for Civil Rights.

[(B) For the purpose of this subsection, the term—

[(i) "information" has the meaning given it by section 3502 of title 44, United States Code; and

[(ii) "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program, including any preschool program.

[(C) The Commissioner shall establish and provide staff personnel to operate information collection and data acquisition review and coordination procedures to be directed by the Administrator for the National Center for Education Statistics. The procedures shall be designed to review proposed collection of information and data acquisition activities in order to advise the Commissioner and the Secretary with respect to whether such activities are excessive in detail or unnecessary or redundant.

[(2)(A) The Administrator shall assist each bureau or agency directly responsible for an applicable program, and the Office for Civil Rights, in performing the coordination required by this subsection, and shall require of each such bureau, agency, and office—

[(i) a detailed justification of how information once collected will be used; and

[(ii) an estimate of the man-hours required by each educational agency or institution to complete the requests.

[(B) Each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during the 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator on the collection of information and data acquisition activity.

[(C) Nothing in this subsection shall be construed to interfere with the enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provisions of Federal law.

[(3) The Administrator shall, insofar as practicable, and in accordance with the provisions of this title, provide educational agencies and institutions with summaries of the information collected and the data acquired by the Education Division and the Office for Civil Rights.

[(4) The Administrator shall, insofar as practicable, develop a common set of definitions and terms after consultation with the head of each bureau or agency directly responsible for the administration of an applicable program.

[(5) The Commissioner shall prepare as part of the annual report to the Congress provisions relating to the progress made by the Secretary, the Commissioner, and the Administrator in meeting the objectives of this subsection and make to the Congress whatever legislative recommendations necessary for meeting the objectives.

[(h)] *(g)*(1) The amount available for salaries and expenses of the Center shall not exceed $5,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for the fiscal year ending June 30, 1976, and $14,000,000 for each of the fiscal years ending prior to [October 1, 1978.] *October 1, 1983.*

(2) The amount available for grants and contracts by the Assistant Secretary under subsection (e) shall not exceed $20,000,000 for the fiscal year ending June 30, 1975, $25,000,000 for the fiscal year ending June 30, 1976, and $30,000,000 for each of the fiscal years ending prior to October 1, 1978.

(3) Sums appropriated for activities and expenses of the Center which are not limited by paragraph (2) of this subsection shall be appropriated apart from appropriations which are so limited, as separate line items.

RULES FOR EDUCATION OFFICERS OF THE UNITED STATES

SEC. 407. (a) For the purposes of this section, the term "education officer of the United States" means any person appointed by the President pursuant to this part, except members of commissions, councils, and boards.

(b) Each education officer of the United Statess hall serve at the pleasure of the President.

(c) No education officer of the United States shall engage in any other business, vocation, or employment while serving in the position to which he is appointed; nor may he except with the express approval of the President in writing, hold any office in, or act in any capacity for, or have any financial interest in, any organization, agency, or institution to which an agency in the Education Division makes a grant or with which any such agency makes a contract or any other financial arrangement.

(d) No person shall hold, or act for, more than one position as an education officer of the United States for more than a 30 day period.

GENERAL AUTHORITY OF ADMINISTRATIVE HEADS OF EDUCATION AGENCIES

SEC. 408. (a) Each administrative head of an education agency, in order to carry out functions otherwise vested in him by law *or by delegation of authority pursuant to law*, is, subject to limitations as may be otherwise imposed by law, authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, *and governing the applicable programs administered by* the agency of which he is head;

(2) in accordance with those provisions of title 5, United States Code, relating to the appointment and compensation of personnel, and subject to such limitations as are imposed in this part, to appoint and compensate such personnel as may be necessary to enable such agency to carry out its functions;

(3) to accept unconditional gifts or donations of services, money, or property (real, personal, or mixed; tangible or intangible);

(4) without regard for section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary for the conduct of such agency;

(5) with funds expressly appropriated for such purpose, to construct such facilities as may be necessary to carry out functions vested in him or in the agency of which he is head, and to acquire and dispose of property; and

(6) to use the services of other Federal agencies and reimburse such agencies for such services.

(b) Any administrative head of an education agency is, subject to any other limitations on delegations of authority provided by law, authorized to delegate any of his functions under this section to an officer or employee of that agency.

(c) **[**For the purposes of this section**]** *For the purposes of this title*, the term "administrative head of an education agency" means the Commissioner and the Director of the National Institute of Education. To the extent that the Assistant Secretary is directly responsible for the administration of a program and to the extent that the Assistant Secretary is responsible for the supervision of the National Center for Education Statistics, the Assistant Secretary shall, for such purposes, be considered within the meaning of such term.

PART B—APPROPRIATIONS AND EVALUATIONS

Subpart I—Appropriations

ADVANCE FUNDING

SEC. 411. To the end of affording the responsible State, local, and Federal officers concerned adequate notice of available Federal financial assistance for education, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding that its initial application under such program will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year

AVAILABILITY OF APPROPRIATIONS ON ACADEMIC OR SCHOOL YEAR BASIS

SEC. 412. (a) Appropriations for any fiscal year for grants, loans, contracts, or other payments to educational agencies or institutions under any applicable program may, in accordance with regulations of the Secretary, be made available for expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(b) (*1*) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this title is applicable during any fiscal year [ending prior to October 1, 1978], which are not obligated and expended by educational agencies or institutions prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure by such agencies and institutions during such succeeding fiscal year.

(2) Any funds under any applicable program which, pursuant to paragraph (1), are available for obligation and expenditure in the year succeeding the fiscal year for which they were appropriated shall be obligated and expended in accordance with—

(A) the Federal statutory and regulatory provisions relating to that program which are in effect for that succeeding fiscal year, and

(B) any program plan or application submitted by the educational agencies or institutions for that program for that succeeding fiscal year.".

(c) If any funds appropriated to carry out any applicable program are not obligated pursuant to a spending plan submitted in accordance with section 3679(d)(2) of the Revised Statutes and become available for obligation after the institution of a judicial proceeding seeking the release of such funds, then such funds shall be available for obligation and expenditure until the end of the fiscal year which begins after the termination of such judicial proceeding.

AVAILABILITY OF APPROPRIATIONS

SEC. 413. Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this title, funds appropriated for any fiscal year to carry out any of the programs to which this title is applicable shall remain available for obligation and expenditure until the end of such fiscal year.

CONTINGENT EXTENSION OF PROGRAMS

SEC. 414. (a) Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

(1) of the authorization of appropriations for an applicable program; or

(2) of the duration of an applicable program;

either—

(A) has passed or has formally rejected legislation which would have the effect of extending the authorization or duration (as the case may be) of that program; or

(B) by action of either the House of Representatives or the Senate, approves a resolution stating that the provisions of this section shall no longer apply to such program;

such authorization or duration is hereby automatically extended for one additional fiscal year. The amount appropriated for such additional year shall not exceed the amount which the Congress could, under the terms of the law for which the appropriation is made, have appropriated for such program during such terminal year.

(b)(1) For the purposes of clause (A) of subsection (a), the Congress shall not have been deemed to have passed legislation unless such legislation becomes law.

(2) In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of an applicable program, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which that part of subsection (a) which follows clause (B) thereof is in operation.

Subpart 2—Planning and Evaluation of Federal Education Activities

PROGRAM PLANNING AND EVALUATION

SEC. 416. Sums appropriated pursuant to section 400(d) may include for any fiscal year for which appropriations are otherwise authorized under any applicable program not to exceed $25,000,000 which shall be available to the Secretary, in accordance with regulations prescribed by him, for expenses, including grants, contracts, or other payments, for (1) planning for the succeeding year for any such program, and (2) evaluation of such programs.

ANNUAL EVALUATION REPORTS

SEC. 417. (a)(1) Not later than November 1 of each year, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the [Committee on Labor and Public

Welfare] *Committee on Human Resources* of the Senate an annual evaluation report which evaluates the effectiveness of applicable programs (*including compliance with provisions of law reqiring the maintenance of non-Federal expenditures for the purposes of such applicable programs*) in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes. In the case of any evaluation report evaluating specific programs and projects, such report shall—

(A) set forth goals and specific objectives in qualitative and quantitative terms for all programs and projects assisted under the applicable program concerned and relate those goals and objectives to the purposes of such program;

(B) contain information on the progress being made during the previous fiscal year toward the achievement of such goals and objectives;

(C) describe the cost and benefits of the applicable program being evaluated during the previous fiscal year and identify which sectors of the public receive the benefits of such program and bear the costs of such program;

(D) contain plans for implementing corrective action and recommendations for new or amended legislation where warranted;

(E) contain a listing identifying the principal analyses and studies supporting the major conclusions and recommendations in the report; and

(F) be prepared in concise summary form with necessary detailed data and appendices.

(2) In the case of programs and projects assisted under title I of the Elementary and Secondary Education Act of 1965, the report under this subsection shall include a survey of how many of the children counted under section 103(c) of such Act participate in such programs and projects, and how many of such children do not, and a survey of how many educationally disadvantaged children participate in such programs and projects, and how many educationally disadvantaged children do not. For purposes of the preceding sentence, the term 'educationally disadvantaged children' refers to children who are achieving one or more years behind the achievement expected at the appropriate grade level for such children.

(b) Each evaluation report submitted pursuant to subsection (a) shall contain: (1) a brief description of each contract or grant for evaluation of any program (whether or not such contract or grant was made under section 416) any part of the performance of which occurred during the preceding year, (2) the name of the firm or individual who is to carry out the evaluation, and (3) the amount to be paid under the contract or grant.

RENEWAL EVALUATION REPORTS

SEC. 418. (a) In the case of any applicable program for which—

(1) the authorization of appropriations expires; or

(2) the time during which payments or grants are to be made expires;

not later than one year prior to the date of such expiration, the Assistant Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a comprehensive evaluation report on such program.

(b) Any comprehensive evaluation report submitted pursuant to subsection (a) shall contain—

(1) a history of the program concerned, including—

(A) a history of authorizations of appropriations, budget requests, appropriations, and expenditures (*including, where applicable, State and local expenditures*) for such programs;

(B) a history of legislative recommendations with respect to such program made by the President and the disposition of such recommendations, and

(C) a history of legislative changes made in applicable statutes with respect to such program;

(2) assuming a continuation of such program, recommendations for improvements (including legislative changes and funding levels) in such program with a view toward achieving the legislative purposes of such program;

(3) a compilation and summary of all evaluations of such program; and

(4) a recommendation with respect to whether such program should be continued, and the date of its expiration, and the reasons for such recommendations.

EVALUATION BY THE COMPTROLLER GENERAL

SEC. 419. (a) The Comptroller General of the United States shall review, audit, and evaluate any Federal education program upon request by a committee of the Congress having jurisdiction of the statute authorizing such program or, to the extent personnel are available, upon request by a member of such committee. Upon such request, he shall (1) conduct studies of statutes and regulations governing such program; (2) review the policies and practices of Federal agencies administering such program; (3) review the evaluation procedures adopted by such agencies carrying out such program; and (4) evaluate particular projects or programs. The Comptroller General shall compile such data as are necessary to carry out the preceding functions and shall report to the Congress at such times as he deems appropriate his findings with respect to such program and his recommendations for such modifications in existing laws, regulations, procedures and practices as will in his judgment best serve to carry out effectively and without duplication the policies set forth in education legislation relative to such program.

(b) In carrying out his responsibilities as provided in subsection (a), the Comptroller General shall give particular attention to the practice of Federal agencies of contracting with private firms, organizations and individuals for the provision of a wide range of studies and services (such as personnel recruitment and training, program evaluation, and program administration) with respect to Federal education programs, and shall report to the heads of the agencies concerned and to the Congress his findings with respect to the necessity for such contracts and their effectiveness in serving the objectives established in education legislation.

(c) In addition to the sums authorized to be appropriated under section 400(d), there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

SEC. 420. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title I of the Act of September 30, 1950 (P.L. 874, 81st Congress), but not including any portion of such funds as are attributable to children counted under subparagraph (C) of section 3(d)(2) or section 403(1)(C) of that Act.

PART C—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING THE OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS; GENERAL AUTHORITY OF THE COMMISSIONER OF EDUCATION

APPLICABILITY

SEC. 421. The provisions of this part (except as otherwise provided) shall apply to any program for which the Commissioner has administerative responsibility, as specified by law or by delegation or authority pursuant to law.

SUBPART 1—GENERAL AUTHORITY

ADMINISTRATION OF EDUCATION PROGRAMS

SEC. 421A (a) The Commissioner is authorized to delegate any of his functions under any applicable program, except the making of regulations and the approval of State plans, to any officer or employee of the Office of Education.

(b) In administering any applicable program, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

(c)(1)(A) Except in the case of a law which—

(i) authorizes appropriations for carrying out, or controls the administration of, an applicable program, or

(ii) is enacted in express limitation of the provisions of this paragraph,

no provision of any law shall be construed to authorize the consolidation of any applicable program with any other program. Where the provisions of law governing the administration of an applicable program permit the packaging or consolidation of applications for grants or contracts to attain simplicity or effectiveness of administration, nothing in this subparagraph shall be deemed to interfere with such packaging or consolidation.

(B) No provision of any law which authorizes an appropriation for carrying out, or controls the administration of, an applicable program shall be construed to authorize the consolidation of any such program with any other program unless provision for such a consolidation is expressly made thereby.

(C) For the purposes of this subsection, the term "consolidation" means any agreement, arrangement, or the other procedure which results in—

(i) the commingling of funds derived from one appropriation with those derived from another appropriation,

(ii) the transfer of funds derived from an appropriation to the use of an activity not authorized by the law authorizing such appropriation,

(iii) the use of practices or procedures which have the effect of requiring, or providing for, the approval of an application for funds derived from different appropriations according to any criteria other than those for which provision is made (either expressly or implicitly) in the law which authorizes the appropriation of such funds, or this title, or

(iv) as a matter of policy the making of a grant or contract involving the use of funds derived from one appropriation dependent upon the receipt of a grant or contract involving the use of funds derived from another appropriation.

(2)(A) No requirement or condition imposed by a law authorizing appropriations for carrying out any applicable program, or controlling the administration thereof, shall be waived or modified, unless such a waiver or modification is expressly authorized by such law or by a provision of this title or by a law expressly limiting the applicability of this paragraph.

(B) There shall be no limitation on the use of funds appropriated to carry out any applicable program other than limitations imposed by the law authorizing the appropriation or a law controlling the administration of such program; nor shall any funds appropriated to carry out an applicable program be allotted, apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified in the law authorizing the appropriation.

(3) No person holding office in the executive branch of the Government shall exercise any authority which would authorize or effect any activity prohibited by paragraph (1) or (2).

(4) The transfer of any responsibility, authority, power, duty, or obligation subject to this title, from the Commissioner to any other officer in the executive branch of the Government, shall not affect the applicability of this title with respect to any applicable program.

COLLECTIONS AND DISSEMINATION OF INFORMATION

SEC. 422. (a) The Commissioner shall—

(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs;

(2) inform the public on federally supported education programs;

(3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purposes; and

(4) prepare and publish an annual report (to be referred to as "the Commissioner's annual report") on (A) the condition of education in the nation, (B) developments in the administration, utilization, and impact of applicable programs, (C) results of investigations and activities by the Office of Education, and (D) such facts and recommendations as will serve the purpose for which the Office of Education is established (as set forth in section 403 of this Act).

(b) The Commissioner's annual report shall be submitted to the Congress not later than June 30 of each calendar year. The Commissioner's annual report shall be made available to State and local educational agencies and other appropriate agencies and institutions and to the general public.

(c) The Commissioner is authorized to enter into contracts with public or private agencies, organizations, groups, or individuals to carry out the provisions of this section.

CATALOG OF FEDERAL EDUCATION ASSISTANCE PROGRAMS

SEC. 423. The Commissioner shall prepare and make available in such form as he deems appropriate a catalog of all Federal education assistance programs whether or not such programs are administered by him. The catalog shall—

(1) identify each such program, and include the name of the program, the authorizing statute, the specific Federal administering officials, and a brief description of such program;

(2) set forth the availability of benefits and eligibility restrictions in each such program;

(3) set forth the budget requests for each such program, past appropriations, obligations incurred, and pertinent financial information indicating (A) the size of each such program for selected fiscal years, and (B) any funds remaining available;

(4) set forth the prerequisites, including the cost to the recipient of receiving assistance under each such program, and any duties required of the recipient after receiving benefits;

(5) identify appropriate officials, in Washington, District of Columbia, as well as in each State and locality (if applicable), to whom application or reference for information for each such program may be made;

(6) set forth the application procedures;

(7) contain a detailed index designed to assist the potential beneficiary in identifying all education assistance programs related to a particular need or category of potential beneficiaries;

(8) contain such other program information and data as the Commissioner deems necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal education assistance program; and

(9) be transmitted to Congress with the Commissioner's annual report.

COMPILATION OF ASSISTED INNOVATIVE PROJECTS

SEC. 424. The Assistant Secretary shall publish annually a compilation of all innovative projects assisted under programs administered in the Education Division, including title III and part C of title IV of the Elementary and Secondary Education Act of 1965, in any year funds are used to carry out such programs. Such compilation shall be indexed according to subject, descriptive terms, and locations.

REVIEW OF APPLICATIONS

SEC. 425. (a) In the case of any applicable program under which financial assistance is provided to (or through) a State educational agency to be expended in accordance with a State plan approved by the Commissioner, and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965, any applicant or recipient aggrieved by the final action of the State educational agency, and alleging a violation of State or Federal law; rules, regulations, or guidelines governing the applicable program, in (1) disapproving or failing to approve its application or program in whole or part, (2) failing to provide funds in amounts in accord with the requirements of laws and regulations, or (3) terminating further assistance for an approved program, may within thirty days request a hearing. Within thirty days after it receives such a request, the State educational agency shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing the State educational agency shall issue its written ruling, including reasons therefor. If it determines such final action was contrary to Federal or State law, or the rules, regulations, and guidelines, governing such applicable program it shall rescind such final action.

(b) Any applicant or recipient aggrieved by the failure of a State educational agency to rescind its final action after a review under such subsection (a) may appeal such action to the Commissioner. An appeal under this subsection may be taken only if notice of such appeal is filed with the Commissioner within twenty days after the applicant or recipient has been notified by the State educational agency of the results of its review under subsection (a). If, on such appeal, the Commissioner determines the final action of the State educational agency was contrary to Federal law, or the rules, regulations, and guidelines governing the applicable program, he shall issue an order to the State educational agency prescribing appropriate action to be taken by such agency. On such appeal, findings of fact of the State educational agency, if supported by substantial evidence, shall be final. The Commissioner may also issue such interim orders to State educational agencies as he may deem necessary and appropriate pending appeal or review.

(c) Each State educational agency shall make available at reasonable times and places to each applicant or recipient under a program to which this section applies all records of such agency pertaining to any review or appeal such applicant or recipient is conducting under this section, including records of other applicants.

(d) If any State educational agency fails or refuses to comply with any provision of this section, or with any order of the Commissioner under subsection (b), the Commissioner shall forthwith terminate all assistance to the State educational agency under the applicable program affected.

TECHNICAL ASSISTANCE

SEC. 426. (a) For the purpose of carrying out more effectively Federal education programs, the Commissioner is authorized, upon request, to provide advice, counsel, and technical assistance to State educational agencies, institutions of higher education, and, with the approval of the appropriate State educational agency, elementary and secondary schools—

(1) in determining benefits available to them under Federal law;

(2) in preparing applications for, and meeting requirements of applicable programs;

(3) in order to enhance the quality, increase the depth, or broaden the scope of activities under applicable programs; and

(4) in order to encourage simplification of applications, reports, evaluations, and other administrative procedures.

(b) The Commissioner shall permit local educational agencies to use organized and systematic approaches in determining cost allocation, collection, measurement, and reporting under any applicable program, if he determines (1) that the use of such approaches will not in any manner lessen the effectiveness and impact of such program in achieving purposes for which it is intended, (2) that the agency will use such procedures as will insure adequate evaluation of each of the programs involved, and (3) that such approaches are consistent with criteria prescribed by he Comptroller General of the United States for the purposes of audit. For the purpose of this subsection a cost is allocable to a particular cost objective to the extent of relative benefits received by such objective.

(c) In awarding contracts and grants for the development of curricula or instructional materials, the Commissioner and the Director of the National Institute of Education shall—

(1) encourage applicants to assure that such curricula or instructional materials will be developed in a manner conducive to dissemination through continuing consultations with publishers, and personnel of State and local educational agencies, teachers, administrators, and community representatives, and other individuals experienced in such dissemination;

(2) permit applicants to include provision for reasonable consultation fees or planning costs; and

(3) insure that grants and contracts for publication and dissemination of curricula or instructional materials, or both, are awarded competitively to public agencies and private organizations which provide assurances that the curricula and instructional materials will reach the target populations for which they were developed.

[(c)] *(d)* The Commissioner's annual report shall contain a statement of the Commissioner's activities under this section.

PARENTAL INVOLVEMENT AND DISSEMINATION

SEC. 427. In the case of any applicable program in which the Commissioner determines that parental participation at the State or local level would increase the effectiveness of the program in achieving its purposes, he shall promulgate regulations with respect to such program setting forth criteria designed to encourage such participation. If the program for which such determination provides for payments to local educational agencies, applications for such payments shall—

(1) set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of parents of, the children to be served by such programs and projects;

(2) be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public.

USE OF FUNDS WITHHELD FOR FAILURE TO COMPLY WITH OTHER PROVISIONS OF PUBLIC LAW

SEC. 428. At any time that the Commissioner establishes an entitlement, or makes an allotment or reallotment to any State, under any applicable program, he shall reduce such entitlement, allotment, or reallotment by such amount as he determines it would have been reduced, had the data on which the entitlement, allotment, or reallotment is based excluded all data relating to local educational agencies of the State which on the date of the Commissioner's action are ineligible to receive the Federal financial assistance involved because of a failure to comply with title VI of the Civil Rights Act of 1964. Any appropriated funds which will not be paid to a State as a result of the preceding sentence may be used by the Commissioner for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964.

AUTHORIZATION TO FURNISH INFORMATION

SEC. 429. The Commissioner is authorized to transfer transcripts or copies of other records of the Office of Education to State and local officials, public and private organizations, and individuals.

SUBPART 2—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

REGULATIONS: REQUIREMENTS AND ENFORCEMENT

SEC. 431. (a)(1) For the purpose of this section, the term "regulation" means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by the Commissioner.

(2) Regulations issued by the Department of Health, Education, and Welfare or the Office of Education, or by any official of such agencies, in connection with, or affecting, the administration of any applicable program shall contain immediately following each substantive provision of such regulations, citations to the particiular section or sections of statutory law or other legal authority upon which such provision is based.

(b)(1) No proposed regulation prescribed for the administration of any applicable program may take effect until thirty days after it is published in the Federal Register.

(2)(A) During the thirty-day period prior to the date upon which such regulation is to be effective, the Commissioner shall, in accordance with the provisions of section 533 of title 5, United States Code, offer any interested party an opportunity to make comment upon, and take exception to, such standard, rule, regulation, or general requirement and shall reconsider any such standard, rule, regulation, or general requirement upon which comment is made or to which exception is taken.

(B) If the Commissioner determines that the thirty-day requirement in paragraph (1) will cause undue delay in the implementation of a regulation, thereby causing extreme hardship for the intended beneficiaries of an applicable program, he shall notify the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate. If neither committee disagrees with the determination of the Commissioner within 10 days after such notice, the Commissioner may waive such requirement with respect to such regulation.

(c) All such regulations shall be uniformly applied and enforced throughout the fifty States.

(d)(1) Concurrently with the publication in the Federal Register of any final regulation of general applicability as required in subsection (b) of this section, such final regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Such final regulation shall become effective not less than forty-five days after such transmission unless the Congress shall, by concurrent resolution, find that the final regulation is inconsistent with the Act from which it derives its authority, and disapprove such final regulation. Failure of the Congress to adopt such a concurrent resolution with respect to any such final regulation prescribed under any such Act, shall not represent, with respect to such final regulation, an approval or finding of consistency with the Act from which it derives its authority for any purpose, nor shall such failure to adopt a concurrent resolution be construed as evidence of an approval or finding of consistency necessary to establish a prima facie case, or an inference or presumption, in any judicial proceeding.

(2) The forty-five day period specified in paragraph (1) shall be deemed to run without interruption except during periods when either House is in adjournment sine die, in adjournment subject to call of the Chair, or in adjournment to a day certain for a period of more than four consecutive days. In any such period of adjournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calendar days, or less, the forty-five day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournment which lasts more than thirty days, the forty-five day period shall be deemed to have elapsed after thirty calendar days has elapsed, unless, during those thirty calendar days, either the Committee on Education and Labor of the House of Representatives, or the Committee on Labor and Public Welfare of the Senate, or both, shall have directed its chairman, in accordance with said committee's rules, and the rules of that House,

to transmit to the appropriate department or agency head a formal statement of objection to the final regulation. Such letter shall suspend the effective date of the final regulation until not less than twenty days after the end of such adjournment, during which the Congress may enact the concurrent resolution provided for in this subsection. In no event shall the final regulation go into effect until the forty-five-day period shall have elapsed, as provided for in this subsection, for both Houses of the Congress.

(e) Whenever a concurrent resolution [illegible] approval is enacted by the Congress under the provisions of this section, the agency which issued such regulation may thereafter issue a modified regulation to govern the same or substantially identical circumstances, but shall, in publishing such modification in the Federal Register and submitting it to the Speaker of the House of Representatives and the President of the Senate, indicate how the modification differs from the final regulation earlier disapproved, and how the agency believes the modification disposes of the findings by the Congress in the concurrent resolution of disapproval.

(f) For the purposes of subsections (d) and (e) of this section, activities under sections 404, 405, and 406 of this title, and under title IX of the Education Amendments of 1972 shall be deemed to be applicable programs.

(g) Not later than sixty days after the enactment of any part of any Act affecting the administration of any applicable program, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a schedule in accordance with which the Commissioner has planned to promulgate final regulations implementing such Act or part of such Act. Such schedule shall provide that all such final regulations shall be promulgated within one hundred and eighty days after the submission of such schedule. Except as is provided in the following sentence, all such final regulations shall be promulgated in accordance with such schedule. If the Commissioner finds that, due to circumstances unforeseen at the time of the submission of any such schedule, he cannot comply with a schedule submitted pursuant to this subsection, he shall notify such committees of such findings and submit a new schedule. If both such committees notify the Commissioner of their approval of such new schedule, such final regulations shall be promulgated in accordance with such new schedule.

MAINTENANCE OF EFFORT DETERMINATION

[SEC. 431A. (a)(1) In prescribing regulations for carrying out the requirements of section 403(a)(11) of the Elementary and Secondary Education Act of 1965 and section 307(b) of the Adult Education Act, the Commissioner shall—

[(A) determine the amount so expended on the basis of per pupil or aggregate expenditures;

[(B) prescribe that the requirement for each such section is met for any fiscal year for which notification is given under subparagraph (C) if, for such year, the fiscal effort per student or the amount expended is not less than the allowable percentage reduction for that agency from its fiscal effort per student or the amount expended by that agency in its base year; and

[(C) requires that each agency intending to use the provisions of this section shall notify the Commissioner.

(2) For purposes of paragraph (1)(B) of this subsection—

[(A) an agency's base year for the period in which such paragraph is effective shall be the fiscal year determined by that agency to be such base year in the first fiscal year for which such notification is given by that agency, except that such base year so determined shall be—

[(i) the fiscal year preceding such fiscal year for which notification is given; or

[(ii) the second fiscal year preceding such year of notification; and

[(B) an agency's allowable percentage reduction for any fiscal year shall be a percentage reduction from the fiscal effort per student or the amount expended in its base year determined by that agency which, when added to the sum of any such percentage reductions previously determined by that agency for purposes of paragraph (1)(B), does not exceed 5 percent.

[(b)(1)(A) In any case in which exceptional circumstances exist, the Commissioner may, in accordance with the provisions of this subparagraph, waive, for any fiscal year, the requirement of section 403 (a)(11) of the Elementary and Secondary Education Act of 1965, of section 307(b) of the Adult Education Act, and of this section, if he determines such waiver to be equitable in order to reflect such circumstances, including those resulting from decreasing enrollments or fiscal resources of the relevant local educational agency, or the State, or both. In any case in which a waiver under this subparagraph is granted, the Commissioner shall reduce the amount of the Federal payment for the current fiscal year in the exact proportion to which the fiscal effort per student or the amount expended was less than 100 percent for the second preceding fiscal year as required by section 403(a)(11) of the Elementary and Secondary Education Act of 1965, and by section 307(b) of the Adult Education Act.

[(B) In any case in which very exceptional circumstances exist, the Commissioner may waive, for any fiscal year, the requirement of section 403(a)(11) of the Elementary and Secondary Education Act of 1965, of section 307(b) of the Adult Education Act, and of this section, if he determines such waiver to be equitable in order to reflect such circumstances, including those resulting from decreasing enrollments or fiscal resources of the relevant local educational agency, or the State, or both.

[(2)(A) In any case in which exceptional circumstances exist with respect to a local educational agency, the Commissioner may, in accordance with the provisions of this subparagraph, waive, for one fiscal year only with respect to such local educational agency, the requirement of section 143(c)(2) of the Elementary and Secondary Education Act of 1965 if he determines such waiver to be equitable in order to reflect such circumstances, including those resulting from decreasing enrollments or fiscal resources of the relevant local educational agency or the State, or both. In any case in which a waiver under this subparagraph is granted, the Commissioner shall, for one fiscal year only, reduce the amount of the Federal payment for the current fiscal year in the exact proportion to which the fiscal effort per student of that agency or the amount expended by that agency was less than 100 percent for the second preceding fiscal year as required by section 143(c)(2) of the Elementary and Secondary Education Act of 1965.

[(B) In any case in which very exceptional circumstances exist with respect to a local educational agency, the Commissioner may waive for one fiscal year only, with respect to such local educational agency the requirement of section 143(c)(2) of the Elementary and Secondary Education Act of 1965 if he determines such waiver to be equitable in order to reflect such circumstances, including those from decreasing enrollments or fiscal resources of such local educational agency.]

[(3) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

[(c) This section shall be effective with respect to each requirement to which it applies, during the period which begins on the date of the enactment of the Education Amendment of 1976, and ends on the date of termination of the program to which the requirement applies. For purposes of the preceding sentence, a program shall be considered to terminate on September 30 of the fiscal year, if any, during which such program is automatically extended pursuant to section 414 of the General Education Provisions Act.

MAINTENANCE OF EFFORT DETERMINATION

SEC. 431A. (a) In prescribing regulations carrying out the requirements of section 404(a)(7) of the Elementary and Secondary Education Act of 1965 and section 307(b) of the Adult Education Act, the Commissioner shall determine the amount so expended on the basis of per pupil or aggregate expenditures.

(b) The Commissioner may waive, for one fiscal year only, the requirements of this section if he determines that such a waiver would be equitalbe due to exceptional or unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State or local educational agency. In any case in which a waiver under this subsection is granted, the Commissioner shall reduce the amount of the Federal payment for the program affected for the current fiscal year in the exact proportion to which the amount expended (either on an average per pupil or aggregate basis) was less than the amount required by section 404(a)(7) of the Elementary and Secondary Education Act of 1965 or section 307(b) of the Adult Education Act. However, this waived may not be taken into account when computing the fiscal effort in subsequent years for the program affected as required by section 404(a)(7) of the Elementary and Secondary Education Act of 1965 or section 307(b) of the Adult Education Act.

(c) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

(d) This section shall be effective with respect to each requirement to which it applies, during the period which begins on the date of the

enactment of the Education Amendments of 1978, and ends on the date of termination of the program to which the requirement applies. For purposes of the preceding sentence, a program shall be considered to terminate on September 30 of the fiscal year, if any, during which such program is automatically extended pursuant to section 414 of the General Education Provisions Act.".

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 432. No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

LABOR STANDARDS

SEC. 433. Except for emergency relief under section 7 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), all laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under any applicable program shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS

SEC. 434. (a) (1) Each recipient of Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement entered into (other than by formal advertising) shall keep such records as the Assistant Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of five years after the completion of the project or undertaking to which reference is made in paragraph (1), have access, for the purpose of audit and examination, to any books, documents, papers, and records of such recipients which, in the opinion of the Comptroller General, after consultation with the Assistant Secretary,

may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements to which reference is made in paragraph (1).

(b)(1)(A) In the case of any State which applies, contracts, or submits a plan, for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of the State educational agency of that State, such State shall submit to, and maintain on file with, the Commissioner a general application meeting the requirements of this subsection. The provisions of the preceding sentence shall also apply in the case of a State or other jurisdiction in which there is only one local educational agency or in which the State educational agency is also the only local educational agency. Such general application shall (i) provide for the submission by the State and approval by the Commissioner of an annual program plan with respect to the particular programs in which the State desires to participate and (ii) provide assurances—

(I) that the State will, through its State educational agency, provide for such methods of administration as are necessary for the proper and efficient administration of the programs to which the general application applies;

(II) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the States under any applicable program;

(III) that the State will make provision for making such reports as the Commissioner may require to carry out his functions;

(IV) that the State will follow such policies and use such methods and practices of administration as will insure that non-Federal funds will not be supplanted by Federal funds; and

(V) that the State will submit to, and have approved by, the Commissioner an annual program plan in accordance with subparagraph (B).

(B) The annual program plan submitted by any State for any fiscal year with respect to any program to which this paragraph applies shall—

(i) be prepared and administered in a manner consistent with specific State plan requirements of the appropriate applicable statutes affecting the program for which the annual program plan is applicable;

(ii) set forth a statement describing the purposes for which Federal funds will be expended during the fiscal year for which the annual program plan is submitted; and

(iii) comply in all other respects with the specific requirements of the appropriate applicable statutes.

(2) In accordance with determinations and regulations of the Commissioner the requirements of paragraph (1) shall be in lieu of comparable requirements for State plans in applicable statutes authorizing appropriations for programs to which paragraph (1) applies.

(3) In the case of any application for assistance under any applicable program to which paragraph (1) does not apply and with respect to which the Commissioner determines that this section would sim-

plify the administration of an applicable program, each such application shall be submitted to the Commissioner at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation and, as a precondition for approval, shall—

(A) provide for such methods of administration as are necessary for the proper and efficient administration of the program or project for which application is made;

(B) make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under the application; and

(C) provide for making such reports as the Commissioner may require to carry out his functions.

(c) Whenever the Commissioner, after reasonable notice and an opportunity for hearing, finds that there has been a failure, by any recipient of funds under any applicable program, to comply substantially with the terms to which such recipient has agreed in order to receive such funds, the Commissioner shall notify such recipient that further payments will not be made to such recipient under that program until he is satisfied that such recipient no longer fails to comply with such terms. Until the Commissioner is so satisfied, no further payments shall be made to such recipient. Pending the outcome of any termination proceeding initiated under this paragraph, the Commissioner may suspend payments to such recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

(d)(1) If any State has submitted an application for funds under any applicable program under which appropriations for such program are, by the applicable statute, allotted or apportioned among the States or under which the State (or local educational agencies in that State) is entitled to a portion of an appropriation therefor and the Commissioner disapproves such application, or if the Commissioner withholds payments to a State under paragraph (1) of subsection (c), that State shall be entitled to judicial review of the actions of the Commissioner in accordance with the provisions of this paragraph.

(2)(A) If any State, under circumstances qualifying for judicial review under this paragraph, desires judicial review of the Commission's action, such State may, within sixty days of such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based the action brought under this division, as provided in section 2112 of title 28, United States Code.

(B) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(C) The court shall have jursidiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(e) For the purposes of this section, the term "application" includes—

(1) an application for a grant;

(2) an offer to make a contract;

(3) a State plan for the administration of an applicable program;

(4) State assurances with respect to the administration of such a program; and

(5) any other methods for seeking Federal funds from the Commissioner of Education;

under which an agency, institution, organization, or other organized entity may become the recipient of Federal funds.

USE OF RECOVERED FUNDS

SEC. 434A. (a) Whenever the Commissioner has recovered funds following a final audit determination with respect to any applicable program, he may consider such funds to be additional funds available for that program and may arrange to repay to the State or the local educational agency affected by that action not to exceed 75 percent of those funds upon his determination that—

(1) the practices or procedures of the State or local agency that resulted in the audit determination have been corrected, and that the State or the local educational agency is in all other respects in compliance with the requirements of that program;

(2) the State or the local agency has submitted to the Commissioner a plan for the use of the funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the unauthorized expenditures which resulted in the audit exception; and

(3) the use of such funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally granted.

(b) Any payments by the Commissioner under this section shall be subject to such other conditions as the Commissioner deems necessary to accomplish the purposes of the affected programs, including—

(1) the submission of periodic reports on the use of funds provided under this section; and

(2) consultation by the State or local educational agency with parents or representatives of the population that will benefit from the payments.

(c) Notwithstanding any other provisions of law, the Commissioner may authorize amounts made available under this section to remain available for expenditure, subject to such conditions as he deems appropriate, for up to three fiscal years following the fiscal year in which the audit determination referred to in subsection (a) was made.

(d) At least thirty days prior to entering into an arrangement under this section, the Commissioner shall publish in the Federal Register a notice of his intent to do so and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least thirty days to submit comments to the Commissioner regarding the proposed arrangement.

PAYMENTS

Sec. 435. Payments pursuant to grants or contracts under any applicable program may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

AUTHORITY TO VEST TITLE TO EQUIPMENT

Sec. 436. The authority of the Commissioner of Education to make a grant to or contract with a local educational agency or State educational agency as such agencies are defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, under any applicable program, shall include discretionary authority, whenever he determines that it would be in the public interest, to vest title to equipment purchased with grant or contract funds in such agency (or waive accountability to the United States for such equipment) without further obligation to the Government or on such terms or conditions as the Commissioner deems appropriate. The authority provided by this section shall be applicable to equipment purchased with funds provided by grants or contracts made on, before, or after the date of the enactment of this section.

RESPONSIBILITY OF STATES TO FURNISH INFORMATION

Sec. 437. (a) The Commissioner shall require that each State submit to him, within ninety days after the end of any fiscal year, a report on the uses of Federal funds in that State under any applicable program for which the State is responsible for administration. Such report shall—

(1) list all grants and contracts made under such program to the local educational agencies and other public and private agencies and institutions within such State during such year;

(2) include the total amount of funds available to the State under each such program for such fiscal year and specify from which appropriation Act or Acts these funds were available;

(3) with respect to the second preceding fiscal year, include a compilation of reports from local educational agencies and other public and private agencies and institutions within such State which sets forth the amount of such Federal funds received by each such agency and the purposes for which such funds were expended;

(4) with respect to such second preceding fiscal year, include a statistical report on the individuals served or affected by programs, projects, or activities assisted with such Federal funds; and

(5) be made readily available by the State to local educational agencies and other public and private agencies and institutions within the State, and to the public.

(b) On or before March 31 of each year, the Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and to the Committee on Education and Labor of the House of Representatives an analysis of these reports and a compilation of statistical data derived therefrom.

PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS

SEC. 438. (a)(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the educational records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) The first sentence of subpargraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

(i) financial records of the parents of the student or any information contained therein;

(ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;

(iii) if the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph (C), confidential recommendations—

(I) respecting admission to any educational agency or institution.

(II) respecting an application for employment, and

(III) respecting the receipt of an honor or honorary recognition.

(C) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (B), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purposes for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's educational records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the contents of such records.

(3) For the purposes of this section the term "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program.

(4)(A) For the purposes of this section, the term "education records" means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials, which—

(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution, or by a person acting for such agency or institution.

(B) The term "education records" does not include—

(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) if the personnel of a law enforcement unit do not have access to education records under subsection (b)(1), the records and documents of such law enforcement unit which (I), are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not made available to persons other than law enforcement officials of the same jurisdiction;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)(A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(b)(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a)) of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests;

(B) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C) authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, (iii) an administrative head of an education agency (as defined in section 408(c)), or (iv) State educational authorities, under the conditions set forth in paragraph (3) of this subsection;

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974;

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of the Internal Revenue Code of 1954; and

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

Nothing in clause (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection.

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, (C) an administrative head of an education agency or (D) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education program, or in connection with the enforcement of the Federal legal requirements which relate to such programs: *Provided*, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4)(A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1)(A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student.

(c) The Secretary shall adopt appropriate regulations to protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of post-secondary education the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of post-secondary education, of the rights accorded them by this section.

(f) The Secretary, or an administrative head of an education agency, shall take appropriate actions to enforce provisions of this section and to deal with violations of this section, according to the provisions of this Act, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with the provisions of this section, and he has determined that compliance cannot be secured by voluntary means.

(g) The Secretary shall establish or designate an office and review board within the Department of Health, Education, and Welfare for the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

PROTECTION OF PUPIL RIGHTS

SEC. 439. All instructional material, including teacher's manuals, films, tapes, or other supplementary instructional material which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project. For the purpose of this section "research or experimentation program or project" means any program or project in any applicable program designed to explore or develop new or unproven teaching methods or techniques.

LIMITATION ON WITHHOLDING OF FEDERAL FUNDS

SEC. 440. (a) Except as provided in section 438(b)(1)(D) of this Act, the refusal of a State or local educational agency or institution of higher education, community college, school, agency offering a preschool program, or other educational institution to provide personally identifiable data on students or their families, as a part of any applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students or their parents, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Such a refusal shall also not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of funding for such a recipient in succeeding fiscal years. In the case of any dispute arising under this section, reasonable notice and opportunity for a hearing shall be afforded the applicant.

(b) The extension of Federal financial assistance to a local educational agency may not be limited, deferred, or terminated by the Secretary on the ground of noncompliance with title VI of the Civil Rights Act of 1964 or any other nondiscrimination provision of Federal law unless such agency is accorded the right of due process of law, which shall include—

(1) at least 30 days prior written notice of deferral to the agency, setting forth the particular program or programs which the Secretary finds to be operated in noncompliance with a specific provision of Federal law;

(2) the opportunity for a hearing on the record before a duly appointed administrative law judge within a 60-day period (unless such period is extended by mutual consent of the Secertary and such agency) from the commencement of any deferral;

(3) the conclusion of such hearing and the rendering of a decision on the merits by the administrative law judge within a period not to exceed 90 days from the commencement of such hearing, unless the judge finds by a decision that such hearing cannot be concluded or such decision cannot be rendered within such period, in which case such judge may extend such period for not to exceed 60 additional days;

(4) the limitation of any deferral of Federal financial assistance which may be imposed by the Secretary to a period not to exceed 15 days after the rendering of such decision unless there has been an express finding on such record that such agency has failed to comply with any such nondiscrimination provision of Federal law; and

(5) procedures, which shall be established by the Secretary, to ensure the availability of sufficient funds, without regard to any fiscal year limitations, to comply with the decision of such judge.

(c) It shall be unlawful for the Secretary to defer or limit any Federal financial assistance on the basis of any failure to comply with the imposition of quotas (or any other numerical requirements which have the effect of imposing quotas) on the student admission practices of an institution of higher education or community college receiving Federal financial assistance.

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ADDITIONAL VIEWS OF SENATOR CHAFEE

I thoroughly support Impact Aid where legitimately required; for example, where students come from homes on a military reservation (where no local property taxes are paid) and attend local public schools. However, I am deeply troubled by the committee's actions in regard to the Impact Aid program. This bill not only continues to improperly authorize Impact Aid funds, but it expands the program just when we are trying to hold the line on spending.

Impact Aid was originally authorized to make up for lost revenue to schools from the presence of federally owned property which does not generate local tax revenue. If the Federal Government takes away property that would otherwise generate taxes in order to support schools and there are children who are going to be in local schools as a result of the Federal presence, Impact Aid is justified and necessary. The burden and the impact of the Federal presence are in the local area.

It is an entirely different case when the burden and impact are in different areas. In the case where the Federal property is in one county, say County A, and the family lives and pays taxes in another, County B, this bill and current law gives Impact Aid to County B. This simply does not make sense to me! County B receives local tax revenue and Impact Aid because of Federal property in another county.

I am also disturbed that the committee has added "real property owned by the Postal Service" as eligible for Impact Aid. Under current law, federally owned post offices do not qualify for aid. Now we are adding an additional burden onto the Federal Government to start giving communities aid that they do not already receive. This is difficult for me to accept. We all want meaningful programs in such areas as education and health. However, this additional expense which adds to our deficit spending is not even a priority item.

JOHN H. CHAFEE.

ADDITIONAL VIEWS OF SENATORS HAYAKAWA, CHAFEE, AND HATCH

The Elementary and Secondary Education Act is not only an important but also an enlightened piece of legislation. Undoubtedly the numerous amendments which the Human Resources Committee is now transmitting to the floor will strengthen its impact.

Nevertheless, there are numerous well-informed educators who wonder whether ESEA even in its improved form will be the most effective way to deal with the great problems of elementary and secondary education in the United States. There are a number of undeniable facts which suggest otherwise. Despite congressional intention to improve education and the expenditure of billions of dollars, the effectiveness of the Federal role is continually called into question. The educational standards in this country are deteriorating while the number of functionally illiterate Americans is actually increasing. The broad-scale improvement in education envisioned in 1965 has simply not occurred.

While the original intent of ESEA was to supplement state and local programs, the partnership between the three levels of government has become dominated by a Federal Government which demands 40 percent of the data required in schools but provides only 7 percent of the funds.

The proliferation of federal education programs and the concurrent diminution of Federal impact or accomplishment poses a serious problem for Federal education policymakers.

Dissatisfaction with the role of the Federal Government is widespread among educators. The call for a more responsive Federal Government has certainly affected congressional action in a number of areas. The challenge to education policymakers at the Federal level to simplify and reorganize Federal education programs at the point of service delivery, the local school level, has been largely ignored by the committee.

In view of the widely recognized shortcomings of Federal education programs, 21 Senators have reached the conclusion that a new approach to delivery of Federal education programs should be tried. With the active cooperation of numerous teachers, administrators, board members and State officials, a bill was drafted which would solve many of the administrative problems of Federal education law while maintaining established Federal education policy.

The Optional Educational Simplification Act, S. 1780, originally introduced by Senator Domenici, represents the work of literally hundreds of educators and many organizations representing educators. Five Senators who are members of the Human Resources Committee voted at the markup session that the committee should adopt a demonstration of S. 1780 in six States. The pilot project would test the efficacy and feasibility of reorganization and simplification of Federal education programs. These five Senators felt that there should be a decisive demonstration of what would really happen if Congress chose to reverse the present trend toward proliferation of categorical programs and allowed the States and localities to develop comprehensive educational plans which would integrate programs at the local level. This group of Senators suggested that hard factual data were needed in order to determine whether or not consolidation is a practical way to solve some of the administrative and paperwork problems congressional programs are creating on the local level. As they recognized, the only way to obtain such hard data is to actually test the feasibility of such an approach through statewide demonstrations in several States.

The members of the Human Resources Committee recognized the merits of the proposal, by providing in the final vote for a study to examine the underlying issues, and to investigate the feasibility of the demonstration project. The undersigned Senators welcome the decision as a step in the right direction. They believe, however, that the shortcomings of Federal education policy are so serious that the proposed and well thought out demonstration program should be approved promptly and without any further delay.

S. I. Hayakawa.
John H. Chaffe.
Orrin G. Hatch.

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